



**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC,
CHINCHOLI**

DATED THIS THE 16TH DAY OF MARCH-2026.

:-PRESENT:-

Anil Shekhanavar., B.Com., LL.B. (Spl.)
SENIOR CIVIL JUDGE & J.M.F.C
CHINCHOLI.

R.A. No.02/2026

APPELLANT:

Yalamma W/o Maleshappa, Age: 58
Years, Occ: Agriculture, R/o
Yakapur Village, Tq. Chincholi,
Dist: Kalaburagi.

(By Sri. S.A.P., Advocate)

-VS-

RESPONDENT

:

Rachamma W/o Bassayya, Age: 53
Years, Occ: Agriculture, R/o
Yakapur Village, Tq. Chincholi,
Dist: Kalaburagi.

(By Sri. C.S., Advocate)

RANK OF THE PARTIES ON I.A-I

Applicants/appellant : Yalamma W/o Maleshappa

-vs-

Opponents/Respondent : Rachamma W/o Bassayya



i.	Provision under which the application is filed	U/O 39 Rule 1 and 2 CPC
ii.	Relief sought for	Temporary injunction
iii.	The date on which the application is filed	17-01-2026
iv.	Number of the application	I.A. No. I
v.	The date on which the objections are filed by the different opponents	11-03-2026
vi.	The date on which the orders were passed on the said application	16-03-2026

**ORDERS ON I.A. NO-I FILED U/O 39 RULE 1 AND 2
R/w U/sec 151 OF C.P.C. by APPELLANT/
PLAINTIFF**

1. The learned counsel for the appellant/plaintiff has filed I.A. No-I U/O. 39 Rule 1 and 2 R/w sec.151 of C.P.C. seeking to restrain the respondent/defendant, from alienating the application schedule suit property in any manner till disposal of the appeal.
2. The appellant has sworn to an affidavit in support of the application. It is stated that, the respondent taking the undue advantage of her name appeared in respect of application suit properties, she trying to alienation to third person. Hence, he prays to allow the I.A. If the respondent



alienate the application schedule suit properties, it would cause multiplicity of proceedings, very purpose of filing of the appeal would be defeated otherwise, she would suffer irreparable loss, hardship and inconvenience which cannot be compensated by any means, no hardship would result to the respondent by granting an injunction. Hence she prays to allow the application.

3. The respondent submitted objection to I.A. No. I. Wherein he stated that, the suit filed by the appellant for specific performance of contract has dismissed in O.S. No. 151/2018 on dated 19-12-2025 and filed the present regular appeal and seeking temporary injunction. Further he stated that, the appellant is the stranger to the suit land, she has no right, title and interest over the suit properties. The respondent being the absolute owner in possession and enjoyment of the suit schedule land. The matter was already decided. Hence, the present I.A., filed by the appellant is not maintainable. If the I.A. is allowed it will be put heavy and irreparable loss to the respondent and no harm of loss will be caused to other side. Hence, he prays to dismiss the application.



- 4.** Heard the both sides arguments and perused the materials on record, the following points arise for consideration of this court are:-

-: P O I N T S :-

1. Whether appellant has made-out a prima facie case for grant of direction as per sought for in IA?
2. Whether the balance of convenience lies in favour of appellant?
3. Whether appellant will be put irreparable loss and hard ship if IA is not allowed?
4. What order?

- 5.** My findings to the above said points are as follows:

Point No.1: In the Affirmative

Point No.2: In the Affirmative

Point No.3: In the Affirmative

Point No.4: As per final order, for the following:

**REASONS**

6. POINT NO.1:- The appellant has filed this regular appeal U/Section 96 R/w Order 41 Rule 1 of the CPC being aggrieved by the judgment and decree passed in O.S. No. 151/2018 dated 19-12-2025 with prayer to set aside the said judgment and decree by allowing the appeal. The appellant counsel argued that, the trial court based on stray sentence taken out of context from the deposition of PW-1 and the learned trial Court dismissed the suit filed by the appellant. Now the appellant being aggrieved by the said order and filed the present appeal seeking to set aside the impugned judgment and decree dated 19-12-2025 passed by the learned Addl.Civil Judge & JMFC at Chincholi in O.S. No. 151/2018. The respondent is being a owner of the suit property and she was executed the registered agreement of sale in favour of the appellant by obtaining the advance sale consideration amount and agreed to obtaining the remaining balance amount at the time of execution of regular registered sale deed after obtaining the necessary documents pertaining to the suit schedule property. But he failed to perform her part of contract and trying to alienation of suit schedule property



to third persons on the base of the revenue entries appears in her name. Hence the appellant counsel prays to restraining the respondent for alienation of the application schedule suit properties by way of granting the order of interim injunction.

7. Per contra, the learned counsel for the respondent vehemently argued that, the matter was already decided by the trial court. The appellant has no any right, title and interest over the suit properties and she cannot make such mischievous allegation against the true owner. Hence he prays to dismiss the I.A.

8. In the light of the arguments canvassed by the learned counsels for the parties, this court has carefully perused the list of documents produced by the parties. The list of documents of appellant consists of certified copy of judgment and decree passed in O.S. No. 151/2018 dated 19-12-2025 by the Addl. Civil Judge & JMFC, Chincholi. The respondent is not produced any documents.



9. At this stage, without going in to the merits of the case and holding mini trial, this court has considered the aspect of prima-facie case, at this stage, this court makes it very clear that, this court is looking towards prima-facie case and not prima-facie right. It is well settled principles of law that, at the time of disposing the Temporary injunction application, the court cannot go into the prima-facie genuineness of the documents and only to consider whether the appellant has made out a prima facie case for granting interim relief.

10. The primary purpose for granting interim relief is the preservation of the things in dispute till legal rights and conflicting claims of the parties before the court are adjudicated the power to grant a temporary injunction is at the discretion of the court. This discretion, however should be exercised reasonably, Judiciously and on sound legal principles. Injunction should not be lightly granted as it adversely affects the other side.

11. The first rule is that, the applicant must make out a prima-facie case in support of the right claimed by him.



The court must be satisfied that, there is a bonafide dispute raised by the applicant, that there is a strong case for trial which needs investigation and a decision on merits and on the facts before the court, there is a probability of the applicant being entitled to the relief claimed by them. The existence of a prima facie right and infraction of such right is a condition precedent for grant of Temporary injunction.

12. The case of the appellant is that, the defendant executed the agreement of sale for obtaining the advance sale consideration amount and agreed to obtaining remaining the balance amount by executing regular sale deed after obtaining the 11E map, phodi pertaining to the suit schedule property. The trial Court on the base of the stray sentence taken out of context from the deposition of PW-1 and dismissed the suit filed by the appellant. Being aggrieved by the said order the present appeal has been filed. On the base of the revenue entries appeared in the name of respondent, she trying to alienation of the application suit lands to deprive the rights of the appellant. On the other hand the respondent has denied it



and contended that said dispute has been already decided by the trial Court and dismissed the suit of the appellant. Again the appellant seeking in present I.A., is not maintainable. Hence, he prays to reject the I.A. At this stage, without going to the merits of the case, this court has perused the documents only in order to ascertain the prima-facie case. After perusal of the document of certified copy of judgment passed in O.S. No. 151/2018 dated 19-12-2025, it reveals that the present appellant filed the suit against the defendant for the relief of specific performance of contract. After contest the trial court dismissed the O.S. No. 151/2018 dated 19-12-2025. Being aggrieved by the said Order, the appellant has filed the present appeal and seeking the interim injunction against the respondent. On the other hand the respondent has been denied the execution of agreement of sale and stated that the matter is already decided and again the filing of the present I.A. against the defendant is not maintainable. The appellant counsel submitted that, based on the stray sentence taken out of context from the deposition of PW-1, the trial court come wrong conclusion and dismissed the suit. Now the respondent taking undue advantage of her name appeared



in the revenue records, she trying to alienation of the application schedule lands. At this stage, it is not feasible to this court to come to the conclusion that, whether the impugned judgment passed by the trial Court is unjust, erroneous and not sustainable in the law or whether the said order is in accordance with settled principle of law. It is left open to the parties to establish the said aspect, at the later stage of the appeal. After considering all these circumstances, this court is of the opinion that, the appellant has made out the prima-facie case for grant by equitable relief of Temporary injunction. Hence, this court has answered **Point No.1 in the affirmative.**

13. POINT NO.2 & 3: The second condition for granting interim injunction is that, the balance of convenience must be in favour of the applicant. In other words, the court must be satisfied that, the comparative mischief, hardship or inconvenience which is likely to be caused to the applicant by refusing the injunction will be greater than that, which is likely to be caused to the opposite party by granting it.



14. The existence of the prima-facie case alone does not entitle the applicant for a temporary injunction. The applicant must further satisfy the court about the third condition by showing that he will suffer irreparable injury if the injunction as prayed is not granted and there is no other remedy open to him by which he can protect himself from the consequences of apprehended injury.

15. The learned counsel for the appellant argued that, though the respondent executed the agreement of sale in favour of the appellant but the trial court come to wrong conclusion on the base of the stray sentence taken out of context from the deposition of PW-1 and dismissed the suit and same has been challenged by the appellant by filing of this appeal. Hence, he prays till disposal of the appeal the respondent is to be restrained from alienation of the application suit lands. On the contrary the counsel for the respondent argued that, after contest the suit has been dismissed by the trial court in accordance with law. Hence, he prays to reject the I.A. After perusal of the materials available on record, at this stage it appears to this court that, the appellant has filed the suit against the



respondent for specific performance of the contract and after contest the said suit has been dismissed by the trial court. Being aggrieved by the said order, the appellant has filed the present appeal against the judgment and order passed by the trial Court on the ground that the trial court came to wrong conclusion on stray sentence taken out of context from the deposition of PW-1. Under these circumstances, whether the impugned judgment and decree passed the trial Court is unjust, erroneous and not sustainable in law nor the said impugned judgment in accordance with law, are yet to be determine at the stage of disposal of appeal. Therefore, at this stage if the Temporary injunction is not granted in favour of the appellant more mischief and hardship will be caused to her, when compared to respondent. Hence, to avoid the multiplicity of the proceedings, this court is of the opinion that, the balance of convenience lies in favour of the appellant and if the temporary injunction is not granted to the appellant, she will be put to irreparable loss and hardship which cannot be compensated in terms of money. Accordingly, this court has **answered Point No.2 and 3 in the affirmative.**



16. Point No.4:- In view of the discussions made above,
this court proceeds to pass the following:

-: O R D E R :-

The I.A. No.I filed by the appellant
U/o. 39 Rule 1 and 2 R/w sec.151 of
CPC is hereby allowed.

Consequently, the respondent or
anybody else claiming through her are
hereby temporarily restrained from
alienating the application suit properties
in any manner till disposal of the
appeal.

No order as to cost.

(Dictated to Stenographer directly on the computer, typed
by him, corrected by me and then pronounced it in open
court this the 16th day of March -2026.)

(ANIL SHEKHANAVAR)
Senior Civil Judge & JMFC
Chincholi