

**IN THE COURT OF THE I-ADDITIONAL SENIOR CIVIL JUDGE AND
JMFC, MADDUR**

Present: **MOHANAKUMARI N.B., L.L.M.**
I-Additional Senior Civil Judge and JMFC,
Maddur, Mandya District

DATED: THE 11TH DAY OF DECEMBER 2025

OS. NO.52 OF 2025

Plaintiffs : Smt. Sharadamma and Other.,

V/s

Defendant: Sri. Harish Babu S.C.,

ORDER ON IA NO.1

This application is filed by the plaintiffs under Order 39 Rule 1 and 2 R/w section 151 of CPC seeking temporary injunction against the defendant restraining him from interfering with peaceful possession and enjoyment of suit schedule property by the plaintiffs pending disposal of the suit.

2. The plaintiff No.2 sworn to affidavit to the present application and stated that the suit schedule B property was ancestral property of the father of the plaintiff No.1. The plaintiff No.1 after the death of her father is the absolute owner of suit B

schedule property. Accordingly, khatha was entered in her name. The husband of the plaintiff No.1 and father of the plaintiff No.2 availed loan of Rs.3,00,000/- from the defendant and executed agreement of sale dated 24.09.2011 in respect of suit B schedule property as security towards repayment of loan. But he could not repay the loan within the stipulated time. Therefore, he again executed agreement of sale dated 19.02.2014 in respect of suit B schedule property as security towards repayment of loan. The suit B schedule property is not in existence. The defendant filed OS No.36/2016 and obtained Judgment and decree by suppressing facts. The defendant fraudulently obtained the signatures of the plaintiffs on the Vakalath form by taking them to Advocate office by assuring that their signatures are required for extension of security document for another two years. The plaintiffs are in possession of suit A schedule property. The defendant obtained sale deed through court commissioner on 12.02.2019 on non existing property. He is causing interference with peaceful possession and enjoyment of the plaintiffs in the suit A schedule property. Therefore, the present application is filed.

3. The defendant filed objections to the application and stated that suit A and B properties are one and the same. The plaintiffs have given wrong boundaries to suit A schedule property. The plaintiffs and the husband of the plaintiff No.1 executed agreement of sale dated 15.02.2014 in favour of this defendant agreeing to sell suit schedule property in terms of agreement. But they failed to execute sale deed as agreed. The defendant filed OS No.36/2016 for specific performance of contract. The plaintiffs appeared through their counsel. But they failed to contest the suit. The suit was decreed on 21.02.2017. The plaintiffs failed to execute sale deed in terms of decree. The defendant filed Ex.No.24/2017 and got executed sale deed dated 12.02.2019 through court commissioner and got it registered on 14.02.2019. Thereafter, the defendant obtained possession of the suit schedule properties through court in the execution petition. He is in possession and enjoyment of the suit schedule properties since from 2019. All revenue records are standing in his name. Hence, it is prayed to dismiss the present application.

4. Heard both sides. Perused the materials place on record.

5. The points that arise for consideration of this Court are :

1. Whether the plaintiffs have made out prima facie case in their favour?
2. Whether irreparable loss or injury will be caused to the plaintiffs, if temporary injunction is not granted in their favour at this stage?
3. Whether balance of convenience lies in favour of plaintiffs at this stage?
4. What order ?

6. The findings of this Court to the above points are as under :-

Point No.1 : In the Negative
Point No.2 : In the Negative
Point No.3 : In the Negative
Point No.4 : As per final order
for the following:

REASONS

7. POINTS NO.1:- The present suit is filed for cancellation of Judgment and decree passed in OS No.36/2016 and to declare that it is not binding on the plaintiffs. The plaintiffs have also sought for consequential reliefs. They contend that they are in possession of suit A schedule property and suit B

schedule property is not in existence. On the other hand, the defendant contends that both the suit schedule properties are one and the same and he is in possession of the same as per the order of court in Ex.No.24/2017. On perusal of the materials available on record, it is forthcoming that the defendant herein filed OS No.36/2016 for specific performance of contract against the plaintiffs. The same is decreed through Judgment and decree dated 21.02.2017. Thereafter, the defendant filed Ex.No.24/2017 and got executed sale deed through court commissioner. He also obtained possession through process of court. The plaintiffs claimed that the decree was obtained by suppressing facts and by playing fraud on them. The same is matter for trial. On perusal of the entire materials available on record, no *prima facie* case is in existence at this stage in favour of the plaintiffs. There is dispute between the parties in respect of identity and boundaries of suit schedule properties. The same cannot be decided at this stage. Therefore, this court is of the considered view that no *prima facie* case exists in favour of the plaintiffs at this stage. Accordingly, **Point No.1 is answered in the Affirmative.**

8. Point No.2 and 3:- When the plaintiffs fail to establish *prima facie* case in their favour at this stage, no question of balance of convenience and irreparable loss would arise. Accordingly, **these Points are answered in the Negative.**

9. Point No.4 :- For the reasons stated and findings given on the above Points, this court proceed to pass the following :

ORDER

**I.A.No.1 filed under Order 39 Rule 1
and 2 r/w Sec.151 of C.P.C is hereby
rejected.**

(Dictated to the Stenographer, transcribed by her, the transcript corrected and pronounced by me in the open court on this the 11th day of December, 2025)

**(MOHANAKUMARI N.B.)
I-Addl. Senior Civil Judge & JMFC.,
Maddur.**