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**IN THE COURT OF
CIVIL JUDGE AND JMFC AT T.N.PURA,MYSORE**

PRESENT : Sri. PRASHANTHA G.C.,BAL., LL.M.,
Civil Judge and JMFC.,
T.Narasipura.

DATED THIS THE 1st DAY OF APRIL 2022

O.S./151/2021

PLAINTIFF : Sri.Prabhakar K.
(By **Sri.SKM.**, Advocate)

V/s

DEFENDANTS : Sri. S.Ramakumar and
Others
(By **Sri.ALS**, Advocates)

PARTIES IN I.A. No.II

APPLICANT : Sri.Prabhakar K.plaintiff

V/s

OPPONENTS : Sri.S.Ramakumar and others

.....defendants

ORDERS ON I.A. No.II

The plaintiff has filed IA No.2 under Order 39 Rule 1 and 2 of the CPC to restrain the defendants from alienating the suit schedule property till the disposal of the suit.

2. The plaintiff has filed affidavit in support of the IA.

3. The defendants have filed objections praying to dismiss the same.

4. Heard the Counsel for the plaintiff and the defendants. Perused the materials available on record.

5. The following points have arisen for consideration of this Court.

1. *Whether the plaintiff has made out prima facie case ?*
2. *Whether the plaintiff proves balance of convenience lies in his favor ?*
3. *Whether the plaintiff proves irreparable loss and injury caused him, if order of temporary injunction is not granted ?*
4. *What order ?*

6. This Court answers the above points 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

7. **Points No.1 to 3:** These points are taken together for common discussion in order to avoid repetition of facts and circumstances.

The plaintiff has filed the suit for the relief of Specific performance of Contract. The plaintiff in the affidavit supporting the IA has stated that the defendants have executed registered agreement of sale in respect of the suit property on 07.03.2018 for a sale consideration of Rs.2,25,000/- and on the same day the defendants have received earnest money of Rs.2,00,000/-. The defendants have agreed to execute the registered sale deed within 6 months after arranging necessary documents required for registration. Despite request and demand the defendants have not come forward to execute the registered sale deed. The plaintiff finally issued a notice on 05.03.2021. In spite of the same the defendants have not executed registered sale deed in favour of the plaintiff. The plaintiff has credible information that the defendants are trying to alienate the suit property in favour of the 3rd parties.

8. Defendants No.1 and 4 in their objections denied all the allegations made in the affidavit.

9. The plaintiff has produced registered agreement of sale dated 07.03.2018. The said documents at this stage supports the claim of the plaintiff that the defendants have executed agreement of sale in respect of the suit property. The Counsel for the defendants argued that since the claim of the plaintiff is based on registered agreement of sale, the defendants never intend to alienate the suit property in favour of the 3rd persons. On the other hand the Counsel for the plaintiff argued that the defendants by concealing the fact of registered agreement may alienate the suit property. At this stage the plaintiff has made prima facie case of execution of registered agreement in favour of the plaintiff and the balance of convenience lies in favour of the plaintiff. If the temporary injunction is not granted much hardship will be caused to the plaintiff. Accordingly this Court answers point No.1 to 3 in the **Affirmative.**

10. **Point No.4:-** For the reasons stated in Point No.1 to 3, IA No.II requires to be allowed. In the result, this Court proceeds to pass the following;

ORDERS

I.A.No.II filed by the plaintiff under Order 39 Rule 1 and 2 of the Code of Civil Procedure is hereby **allowed.**

The defendants are hereby restrained alienating the suit schedule property till the disposal of the suit.

No order as to costs.

(Typed by the Stenographer directly in the computer on my dictation, printout taken, corrected and then pronounced by me in the open court on this the 1st day of April 2022).

(PRASHANTHA G.C.)
Civil Judge and JMFC.,
T.Narasipura.