

KARN020004892024



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| I.A.No.   | 1          |
| I.A filed by the                                | Appellant  |
| Date of filing of I.A                           | 17.01.2026 |
| Date of filing objection by the Respondent No.3 | 22.04.2025 |
| Date of Order                                   | 31.01.2026 |

**IN THE COURT OF THE PRL. SENIOR CIVIL JUDGE  
AND CJM., AT RAMANAGARA**

**Dated:- This the 31<sup>st</sup> day of January, 2026**

**Present:-**

**Sri. Lokesha**

**B.A., L.L.B.,**

**Prl. Senior Civil Judge & CJM.,  
Ramanagara.**

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**Appellant** :- Sri. Chethan Kumar

**V/s.,**

**Respondents** :- Smt. C.R. Komala and others

**In Application**

**Applicant** :- Sri. Chethan Kumar

- (Appellant)

**-V/s-**



**Opponents** :- Smt. C.R. Komala and others  
- (Respondents)

\* \* \*

**ORDER ON APPLICATION UNDER ORDER 39 RULE 1  
AND 2 OF CPC.,**

This application is filed by Appellant Sri. Chethan Kumar requesting the court to pass an order of temporary injunction against the Respondents restraining them from alienating the suit schedule properties pending disposal of suit.

2. In the affidavit filed accompanying this application, Appellant Sri. Chethan Kumar states that this appeal is filed challenging the judgment and decree of OS 65/2016. That the Respondent No.1 and 2 being the owners of the suit properties have executed registered sale agreement dated:11.09.2014 in favour of the Plaintiff agreeing to sell the properties for total sale consideration of Rs.1,92,000/- and they have received advance amount



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of Rs.1,90,000/-. That during subsistence of agreement of sale in favour of this Appellant, Respondent No.1 and 2 in collusion with 3<sup>rd</sup> Respondent have executed sale deed dated:10.06.2015, which is hit by doctrine of notice and not binding on the Plaintiff. That the trial court without proper appreciation of evidence and documents dismissed the suit of the Appellant. It is further states that now the Respondents are making attempt to alienate the suit properties . That Appellant has made out prima-faice case and balance of convenience lies in his favour. If the Respondents alienate the suit properties during pendency of this appeal, Appellant would be suffer to irreparable loss and injury, If order of injunction is granted no hardship would be caused to the other side. Hence, he has prayed for allow this application.

3. On the other hand the learned counsel for the Respondent No.3 has filed objections to the appeal memo contending that the transaction under Ex.P1 was not



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genuine transaction and the trial court has clearly observed that it was a sham transaction between Plaintiff and Defendants No.1 and 2. It is further contended in the objection in this appeal memo that present appeal is not maintainable as the trial court rightly dismissed the suit. Hence, he prayed dismissal of appeal.

4. I have heard the learned counsel for the Appellant and Respondent No.3. I have perused the materials on record.

5. The following Points arise for my consideration:-

*(1) Whether the Appellant has made out a prima-facie case?*

*(2) Whether the balance of convenience and comparative hardship is made out by the Appellant?*

*(3) Whether the Appellant would suffer irreparable loss and injury, if temporary*



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*injunction is not granted in favour of the Appellant?*

*(4) What order?*

6. My answers to the above points are as under:-

Point No.1 to 3 : In the Affirmative;

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

**REASONS**

**7. Point No.1:-** Undisputedly, present appeal is filed by the Appellant challenging the Judgment and Decree dated:31.01.2024 passed in OS 65/2016 passed by learned Prl. Civil Judge and JMFC., Ramanagara in dismissing the suit of the Plaintiff filed for specific performance of contract based on Ex.P1, which is registered agreement of sale alleged to have been executed by Respondents No.1 and 2 in favour of 3<sup>rd</sup> Respondent.



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8. Before going to discuss the facts in it, it is necessary to know the ingredients of prima facie case. Prima-facie case is a substantial question raised bona-fide which needs investigation and a decision on merits. Prima-facie case for temporary injunction generally means that the plaintiff's affidavit and annexure if any go to show that he has a case to go to trial. Prima-facie contemplates that if material placed before the Court, as such issue arise which requires to be investigated by the Court at the trial prima-facie case is made out. It only means substantial question raised in the pleadings which at first sight appears worth investigation and decisions.

9. The principles on which the court grants or confirms a temporary injunction pending the disposal of a suit are now well settled. An interlocutory injunction is merely provisional in its nature. It does not conclude or purport to conclude a right, but is intended to keep the



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matters open pending further orders. When the court is called upon to examine whether plaintiff has a prima facie case in a suit for the purpose of determining whether a temporary injunction should be granted, the court must purse examine the merits of the case and it will be compelled to consider whether there is a likelihood of the suit being decreed. The depth of investigation which the court must necessarily pursue for that purpose will vary with each case. Where the determination must be made with reference to factual material, the scope of examination must be confined to the evidence on record including affidavit evidence available at that stage. The circumstances under which temporary injunction may be granted have by now been more or less crystallized. Wherein any suit it is proved by affidavit or otherwise that any property is disputed is in danger of being wasted, damaged or alienated, by any party to the suit or to restrain the defendant for committing injury of any kind



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relating to the same property or right the court may grant a temporary injunction at its discretion on such terms as to the duration of the injunction and subject to the conditions as the court thinks fit.

10. I have perused the Ex.P1 and documents produced by the 3<sup>rd</sup> Respondent before the trial court. I have also perused the findings recorded by the trial court. Undisputedly, the Defendants No.1 and 2 were placed exparte before the trial court. Ex.P1 registered agreement of sale has not been disputed by the Defendants No.1 and 2 before the trial court. The 3<sup>rd</sup> Respondent was the contesting Defendant before the trial court in who's favour Defendants No.1 and 2 have executed sale deed. Respondent No.3 has produced sale agreement dated:10.04.2013 executed by Defendants No.1 and 2 in her favour with respect to the suit schedule properties. Now the question to be decided in this appeal whether the transaction under Ex.P1 is sham transaction or not. The



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correctness of the impugned Judgment is to be decided after hearing both parties on merits. Appellants have to establish that the transaction under Ex.P1 is valid transaction. Ex.P1 registered agreement of sale produced by the Appellant at this stage is sufficient to hold that the appellant has strong probabilities of ultimate success. So, the materials on record placed by the appellant and from the materials produced by the Respondent No.3 at this stage it is clear that appellant has made out fair and arguable case and a serious question to be tried. Considering the nature of the relief sought for by the appellant and the defence raised by the 3<sup>rd</sup> Respondent, this court is of the opinion that the appellant has made out a prima facie case. While considering the question of prima facie case, what the court is required to see is whether there is a fair question involved in the suit for decision and it will suffice if it is found that the appellant has strong probabilities of ultimate success. Considering



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the circumstances of the case, this court is of the opinion that interference of this court is very much necessary, without which a right accrued in favour of appellant cannot be protected from species of injury which is known as irreparable injury and comparative mischief which is likely to cause in the absence of injunction will be greater and not compensatable. For the foregoing reasons, I come to conclusion that appellant has made out a prima facie case. **With these reasons, I answer Point No.1 in Affirmative.**

**11. Point No.2 and 3:-** The appellant stated in the affidavit filed accompanying this application that the respondents are trying to alienate the suit properties to third party and if the respondents were able to succeed in their attempt of alienation the appellant would be put to irreparable loss and injury. So it is proved by the affidavit filed accompanying this application that the properties



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are being alienated by the respondents This fact is sufficient to hold that balance of convenience lies in favour of the appellant rather the Respondent No.3. So, if the Respondents are succeeded in their attempt of alienation of the suit properties and in the event of appellant succeeding in this appeal, it would be difficult for the appellant to get the decree executed in accordance with law. Under such circumstances, suit properties are to be protected intact pending disposal of appeal. The respondents are to be restrained from alienating the suit properties pending disposal of appeal, which would not cause any injustice to the respondents. It is well settled that the grant of injunction is always in the discretion of the court. However, that discretion is to be exercised in accordance with well established principle of law and exercise of discretion must be based on judicial consideration alone. If two views can be taken by Civil Court, and both are supported by law, it is free to take



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any of the views, either granting the injunction or rejecting the prayer for injunction. So, considering the facts and circumstances of the case, this court is of the opinion that if order of injunction is not granted, it would cause injustice and irreparable loss and injury to the appellant. Therefore, order of injunction in favour of the appellant is very much necessary. **Therefore, I answer Point No.2 and 3 in Affirmative.**

**12. Point No.4:-** In view of my answers to Point No.1 to 3, I proceed to pass the following :-

**ORDER**

Application filed by the Appellant under Order XXXIX Rule 1 and 2 r/w Sec.151 of the CPC., is hereby allowed.

The Respondents are hereby restrained by order of temporary injunction from alienating the suit schedule properties till further order.

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The cost of this I.A. shall follow  
the final result of this appeal.

*(Order dictated to the Stenographer directly on the computer, corrected  
signed and pronounced by me on this day of 31<sup>st</sup> January 2026.)*

(Lokesha)  
Prl.Senior Civil Judge & CJM,  
Ramanagara.