

KARN210002742025



**IN THE COURT OF THE SENIOR CIVIL JUDGE &
J.M.F.C., AT CHANNAPATNA**

: PRESENT :

SRI.VENKATESHAPPA V., B.A. LL.B.

Senior Civil Judge & JMFC,
Channapatna

DATED THIS THE 27th DAY OF JUNE - 2025

O.S.No.83/2025

PLAINTIFFS:

Hoor Pasha & Another

(Represented by Sri.N.M., Adv.)

-V/S-

DEFENDANT:

G.K Shivanna

(Represented by Sri.K.C.V., Adv.)

IN I.A.NO.II

APPLICANT/DEFENDANT :

G.K Shivanna

-V/S-

OPPONENT/PLAINTIFFS:

Hoor Pasha & Another



Date of filing of I.A.No.II	24.03.2025		
Date of Order	27.06.2025		
Duration of the I.A.II	Year/s 00	Month/s 03	Day/s 04

(VENKATESHAPPA V)
Senior Civil Judge & JMFC
Channapatna

ORDERS ON I.A No.II U/O XXXIX RULE 4 R/w

Sec.151 OF CPC

1. The defendant filed application I.A. No.II U/o.39 rule 4 of C.P.C to vacate the interim order dt:24.03.2025 passed by this court.

2. The application is supported by affidavit stating that the averments of written statement are part and parcel of this affidavit. The plaintiff has filed false suit by suppressing real facts. He did not approach this court with clean hands. The defendant did not have intention to alienate the suit schedule property in favour of plaintiff for any legal necessities. Further stated that the defendant



received hand loan a sum of Rs.12,00,000/- for the purpose of improve agriculture land at Somanahalli Village, Maddur Taluk, Mandya District with simple interest from the plaintiff. The alleged agreement of sale deed dated.28.01.2025 is suspicious and doubtful. In fact the plaintiff did not pay the proper stamp duty of agreement of sale deed dated.28.01.2025. There is no cause of action for the suit. The alleged legal notice dt.22.03.2025 did not serve to him. Hence, prays to allow the application.

3. The Plaintiff filed objections stating that the application is not maintainable either in law or facts. The application is frivolous, capricious and liable to be dismissed.

4. The Plaintiff has filed this suit for specific performance of contract. The defendant has executed agreement of sale dt:28.01.2025 in respect of suit schedule



property by receiving advance sale consideration amount a sum of Rs.50,00,000/- out of total sale consideration of Rs.40,00,000/-. The defendant evaded to execute regular sale deed even though mutated E-Khatha and hectically attempted to sell away the suit property in favour of others in order to wrongful gain and loss to the plaintiff. It is admitted by the defendant that he had received Rs.12,00,000/- from the plaintiff. If application is allowed, it would hamper interest of plaintiff. Hence prays to dismiss the application.

5. Heard arguments and perused the materials available on record.

6. The following points that would arise for my consideration are as under:

POINTS

1. Whether the defendant prove that he is entitled relief as sought in the application?
2. What order?



7. **My findings to the above said points are as under:**

Point No.1 : In the Negative

Point No.2 : As per order for the following

:: REASONS ::

8. **POINT No.1** : This is suit for specific performance of contract. The defendant took contention that he did not have intention to alienate the suit schedule property in favour of plaintiff for any legal necessities and he received hand loan a sum of Rs.12,00,000/- for the purpose of improve agriculture land at Somanahalli Village, Maddur Taluk, Mandya District with simple interest from the plaintiff and the alleged agreement of sale deed dated.28.01.2025 is suspicious and doubtful. The said facts requires full pledged trial. Therefore, I hold that the plaintiffs have made out a prima-facie case and balance of convenience lies in-favour of them. ***Hence I answer Point Nos.1 in Negative.***



9. **POINT NO.2:** In view of my findings on Point Nos.1, I proceed to pass the following :

ORDER

The application I.A.No.II U/o.XXXIX
Rule 4 R/w Sec.151 of C.P.C filed by
defendant is hereby dismissed.

No order as to costs.

(Dictated to the Stenographer, transcribed and computerized by her, corrected and initialed by me and then pronounced by me in the open court on this the 27th day of June - 2025).

(VENKATESHAPPA V.)
Senior Civil Judge & JMFC
Channapatna