

KARN210009152022



R.A No.23/2022(Or)

**IN THE COURT OF ADDL. SENIOR CIVIL JUDGE &
J.M.F.C. AT CHANNAPTNA.**

Present:-

Sri. Sandesha K. MA, LLB.,

(Addl. Senior Civil Judge & J.M.F.C., Channapatna)

Dated: 02nd Day of March 2026

REGULAR APPEAL NO.23/2022

Appellant : Sri. Chikkamadegowda,
S/o Late Shambegowda,
Aged about 80 years,
R/at Avverahalli Village,
Honnanayakanahalli Dakale and Post,
Malur Hobli, Channapatna Taluk,
Ramanagara District.

(By Smt. S.S.G., Adv.)

:-V/S:-

Respondents:

1. Sri. Srinivasa,
S/o Puttaiah,
Aged about 52 years,
2. Sri. Mahadevaiah,
S/o Late Channegowda,
Aged about 42 years,
3. Sri. Shivalingaiah,
S/o Late Chennegowda,
Aged about 46 years,
4. Smt.Bhagyamma,
W/o Late Channegowda,
Aged about 61 years,



5. Sri. Manchaiah,
S/o Manchaiah,
Aged about 68 years,
6. Sri. Mayigaiah
S/o Doddakalaiah,
Aged about 56 years,

R/at Avverahalli Village,
Honnanayakanahalli Dakale and Post,
Malur Hobli, Channapatna Taluk,
Ramanagara District.

(By Sri. P.K.V. Adv.)

Parties on IA No.II

Applicant/Plaintiff : Sri. Chikkamadegowda .

V/s

Opponents/Defendants: Sri. Srinivasa and
others.

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| 1. | Provision under which application filed. | Under order 39 rule 1 & 2 R/w 151 of CPC. |
| 2. | Relief sought | Restraining the respondent No.1 to 6 from interfering the plaint schedule property. |
| 3. | The date on which application filed. | 09.02.2026 |
| 4. | Number of application | IA No.II |



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| 5. | The date of which the objection filed by the respondent /defendants | 17.12.2025 |
| 6. | The date on which the order were passed on the said application | 02/03/2026 |

**ORDERS ON IA No.II FILED BY THE
APPELLANT UNDER ORDER XXXIX RULE
1 & 2 and R/W SEC.151 OF CPC.**

This application filed by the appellant under order XXXIX rule 1 and 2 R/w 151 of CPC seeking temporary injunction restraining the respondent No.1 to 6 their henchman, relatives from the interfering with the possession of appeal memo schedule property.

2. Case of the appellant in brief is as under:

The appellant has sworn an affidavit in support of the application he stated that, he challenged the judgment passed by the trial court in os No.167/2016 dated 05.03.2022. Appeal memo schedule property belongs to the Madegowda. After death of Madegowda schedule property standing in the name of Shivalingaiah who is the son of Madegowda. Said property is purchased by the Chikkamadegowda through registered sale deed dated 20.06.2002.



appellant is in possession of the plaint schedule property.

It is further stated that, in order to transfer the said property notice issued to the Thasildhar Channapatna. Respondent No.1 to 6 have not related to the appeal schedule property and appellant family but without the right they have trying to encroached the appeal schedule property. The appellant has filed complaint before concerned police. Respondent No.1 to 6 trespassed the schedule property. Hence, this application.

3. Per contra the respondents filed written statement and contended that, the averments of the affidavit are false appeal schedule property sold by the Shivalingaiah in favour of Melaiyah through registered sale deed measuring to an extent of 3 ½ of guntas. But Khatha has continued in the name of Shivalingaiah. After death of Shivalingaiah MR mutated in the name of Shakuntamma. Thereafter, on 20.06.2002 instead of 6 ½ gutnas 10 guntas of property was sold. The Assistant Commissioner give a report that, the sale deed dated 20.06.2002 is void.

It is further contended that, plaintiff is in possession of the 6 ½ guntas of land remaining 3 ½ gunta stands in the name of Lrs of defendants and



there are constructed as house in a property. Without verifying the documents sale deed is executed on 20.02.2002, it is against to law. In order to grab the property the respondent filed this application. Hence, pray for the dismiss the application.

4. Heard on arguments of both parties and perused the pleadings and materials on record.

5. The following points that arise for the consideration of this court.

POINTS

1. Whether the appellant/applicant has made out a prima-facie case?

2. Whether balance of convenience lies in favour of the appellant?

3. Whether the appellant will be put to irreparable loss and injury if temporary injunction is not granted as prayed?

4. What order?

6. The findings on the above points are as hereunder:

Point No.1: In the **Negative**

Point No.2: In the **Negative**

Point No.3: In the **Negative**

Point No.4: As per the final order

For the following:



REASONS

7. Point No.1: It is the specific case of the appellant that, application schedule property belongs to the Madegowda. After death of Madegowda said property mutated in the name of the his son Shivalingaiah. After Shivalingaiah Khatha as an been mutated in the name of Shakuntamma who is the wife of the Shivalingaiah. Shakuntamma executed is a registered sale deed in favour of appellant and also handed over the possession of the plaint schedule property. The respondents have no right over the schedule property. They have trying to tress pass the schedule property. The appellant has filed complaint before the competent authority but the respondents have again trying to tresspass the schedule property. Hence, this application.

8. The submission of the appellant counsel is appellant is in possession and enjoyment of the schedule property the appellant has purchased the schedule property to registered sale deed from one Shakuntamma. From the date of purchase the appellant is in possession and enjoyment of schedule property. The respondents have trying to tresspass the



schedule property. Hence, prays for the allow the application.

9. The submission of the respondents counsel is Melaiah has purchase the property in Sy.No.201/1 measuring to extent of 3 ½ guntas from the husband of Shakuntalamma. But entire extent mutated in the name of the wife of the Shivalingaiah. instead of selling 6 ½ guntas of land she selling 10 guntas. Said sale deed not in accordance with law. Lrs of the Melaiah is in possession of the 3 ½ guntas of land and respondents also constructed a house in the said property. Hence, pray for dismiss the application.

10. In the light of submission made by the both counsel and this court has carefully perused the pleadings as well as documents produced by the both parties. The applicant has produced copy of sale deed, RTC extract, endorsement and copy of judgment and decree in os. No.21/2003. In also produced photos acknowledgment, sketch. The respondents have produced previous sale deed dated 25.02.1981.

11. At this stage, without going through the merits of the case and holding mini trial, this court has consider the aspect of prima-facie case. At this stage this court makes it very clear that the court is looking



towards prima-facie case and not for prima-facie title. It is well settled principles of law that at the time disposing the temporary injunction application this court cannot going the prima-facie title and only consider whether the applicant has made out prima-facie case for granting of interim relief.

12. The purpose of granting interim relief is the preservation of things in dispute till legal rights and conflicting claim of the parties before the court are adjudicated. In other words the object of making an order regarding interim relief is to evolve a workable formula to the extant called for by the demand of the situation. Keeping in mind the pros and cons if the matter and striking a delicate balance between to conflicting interest i.e., injury and prejudice, likely to be caused to the respondents if the relief is granted. The underlying object granting of temporary injunction is to maintain and preserve status quo at the time of institution of proceedings and prevent any change until the final determination of the suit.

13. The power to granting temporary injunction is at the discretion of the court. This discretion, however, should be exercised reasonable, judiciously and on



sound legal principles. Injunction should not be lightly granted as it adversely affects other side.

14. The first rule is that the appellant must made out a prima-facie case in support of the claimed by them. The court must be satisfied that there is a bonafide dispute raised by the appellant. That there is strong case for trial which needs investigation and a decision in merits and on the facts before the court there is a probability of the appellant 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 granting of temporary injunction.

15. In order to ascertain the prima-facie case, this court as carefully perused the document produced by the appellant i.e., copy of sale deed dated 02.06.2002, mutation extracts, sketch, RTC extracts, and judgment in O.S.No.21/2013, endorsement. The respondents have produced copy of sale deed dated 25.02.1981. Upon going through the sale deed dated 21.02.1981 shows that, Melaiyah has purchased the property in Sy.No.201/1 measuring to an extent of 3 ½ gutnas from the husband of Shakuntamma. But Shakuntamma has sold the 10 guntas of land in favour of appellant. Said facts has not brought to the



notice of this court by the appellant. The appellant before the trial court is plaintiff and he filed O.S. No.167/2016 before trial court. The trial court has dismissed the suit filed by the appellant. On the basis of that, the appellant has preferred this appeal. At this stage upon going through the sale deed dated 25.02.1981 shows that, the appellant has not made out a prima-facie case. Though the appellant has produced sale deed with regard to the schedule property more particularly sale deed dated 20.06.2002 shows that, he purchased the property from the Shakuntamma measuring to an extent of 10 guntas of land but husband of Shakuntamma has sold the 3 ½ guntas of land in favour of Melaiyah. Remaining 6 ½ guntas of land with the Shakuntamma. But Shakuntamma has sold the property measuring to an extent of 10 guntas of land which is not in the possession of her. Therefore, the sale deed produced by the appellant dated 20.06.2002 has no value at this stage. At this stage the appellant has not made out prima-facie case. The appellant concealed the true facts before the sight of court and filed the application. Hence, the applicant has not entitled any equitable relief. With these observations this court has answered point No. 1 in the **Negative.**



16. Point No.2 and 3: The second condition for granting interim injunction is that the balance of convenience must be in favour of the applicant, in other words this 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 grater than that which is likely to be caused to the opposite party by granting it.

17. The existence of prima-facie case alone does not entitled the appellant for a temporary injunction. The applicant/plaintiff must further satisfied the court about the 3rd condition by showing that she will suffer irreparable injury if the injunction as prayed is not granted and there is no other remedy open to them by which she can protect herself from the consequences of apprehended injury. The applicant has produced copy of sale deed and RTC extract with regard to the schedule property but the copy of sale deed produced by the respondents shows that, the appellant has concealed the true fact and filed the suit. As already stated above the husband of the Shakuntamma has sold the 3 ½ guntas property in Sy.No.201/1 in favour of Mealaiiah. But the wife of Shivalingaiah has sold the 10 guntas of property in favour to appellant. If the application allowed the respondents will put irreparable



injury and hardship. Moreover before trial court the appellant has seeking same relief. But the learned trial court of not granted the relief of appellant. Hence this court answered point No. 2 and 3 in the **Negative**.

18. Point No.4: In view of the discussion, this court proceeds to pass the following:

ORDER

I.A. No.II filed by the applicant under order XXXIX Rule 1 and 2 R/w 151 of CPC is hereby dismissed.

No order as to cost.

(Dictated to the Stenographer, directly on the computer and signed by me and then pronounced in the Open Court on this 02th day of March 2026)

(Sri.Sandesha.K)
Addl. Senior Civil judge & JMFC.,
Channapatna



**(ORDER PRONOUNCED IN THE OPEN COURT
(ON 02/03/2026)
(VIDE SEPARATE ORDER)
O R D E R**

I.A. No.II filed by the applicant under order XXXIX Rule 1 and 2 R/w 151 of CPC is hereby dismissed.

No order as to cost.

To hear on IA No.I. Call on 13.03.2026.

Addl. Senior Civil judge & JMFC.,
Channapatna