

KARN320027842024



**IN THE COURT OF THE II ADDL. CIVIL JUDGE & JMFC., AT  
kanakapura**

**Dated this 18<sup>th</sup> Day of December 2025**

**Present: Sri.Vinay .V. Kundapur B.A.L., LL.B.,  
II Addl. Civil Judge and JMFC.,  
Kanakapura.**

**O.S. No.394/2024**

**PLAINTIFF : Smt. Rathnamma**

***/Vs/***

**DEFENDANTS : Smt. Annapurna and others.,**

**INTERLOCUTORY APPLICATION No. II**

**APPLICANT : Smt. Rathnamma .....plaintiff**

**(By Sri. G.S.M., Advocate)**

***/Vs/***



**OPPONENTS** : Smt. Annapurna and others., .....defendants

**(By Sri.L.P.S., Advocate)**

1	Provision under which the application is filed	:	U/O 39 Rule 1 and 2 of CPC
2	Relief Sought for	:	Specific performance
3	The date on which the application is filed	:	11.11.2024
4	The date on which the objection is filed by opponents	:	02.06.2025
5	The date on which the order was passed on the said application	:	18.12.2025

**ORDER ON I.A FILED UNDER Or. 39 R.1 & 2 OF CODE OF CIVIL PROCEDURE, 1908**

This application is filed by the applicant/plaintiff seeking an ad interim order of temporary injunction restraining the defendants No.1 to 3, servants, agents or anybody acting on her behalf from



selling/ alienating the suit schedule properties infavour of others, until disposal of the suit in the interest of justice.

2. In the accompanying affidavit plaintiff submits that, she filed the above suit against the defendants for specific performance of contract. The plaintiff submit that, the husband of the first of defendant and father of the second and third defendant that is Srinivasa S/o Late Girigowda is the absolute owner of the property bearing Sy No.345/2, measuring to an extent of 0.10 guntas, situated at Cheeluru Village, Maralavadi Hobli, Harohalli Taluk, Ramanagara District. Husband of the first of 1<sup>st</sup> defendant had acquired the same through the family inheritance vide MR.H No.179/2015-16. More fully described in the schedule here under and hereafter called as schedule properties. The katha of suit schedule property is stands in the name husband of the first of 1<sup>st</sup>



defendant as per mutation MR.H No.179/2015-16. He is in possession and enjoyment of the property.

Further plaintiff submits that, the husband of the first of 1<sup>st</sup> defendant offered to sell the schedule property to the plaintiff, and plaintiff is accepted the offer. Both parties have agreed to sell and purchase property for total sum of Rs. 3,75,000/-. There upon both parties have executed agreement of sale dated 21.01.2022. The husband of the first of 1<sup>st</sup> defendant received a sum of Rs.3,30,000/- as advance amount in part payment of the sale consideration in presence of the witness, the receipt of which has been presence of the witness, the receipt of which has been acknowledged in the agreement itself. It is specifically agreed that, the plaintiff should pay the balance consideration at time of executing and registering the sale deed infavour of the plaintiff at the cost of plaintiff. The husband of the first of 1<sup>st</sup> defendant was agreed to produced all the



revenue documents, survey sketch and nil encumbrance certificate and other family members at the registration of sale deed.

Further plaintiff submits that, the husband of the first of 1<sup>st</sup> defendant also agreed and undertook that, he will get the measurement and sketch of land by the Survey Department to find out the actual measurement of land and then they will execute the sale deed. Until today they did not applied for survey. The survey sketch is necessary to register the sale deed, he failed to discharge his obligations in terms of agreement. I have been always ready and willing to perform his part of contract of sale, she was ready to pay the balance consideration and get the sale deed registered in her favour. She had informed the husband of 1<sup>st</sup> defendant. Plaintiff had made all arrangements for the registration and fixed the date of registration. Thereafter husband of 1<sup>st</sup> defendant had orally informed plaintiff that the documents are not ready for the



execution of sale deed other relevant documents for executing sale deed infavour of plaintiff and husband of the 1<sup>st</sup> defendant had requested plaintiff to postpone for the execution sale deed. Plaintiff had believed the words of husband of 1<sup>st</sup> defendant postponed the same. Unfortunately husband of 1<sup>st</sup> defendant had died on 28.03.2023 by leaving behind you as his legal heirs of defendants.

The plaintiff further submits that, the 1<sup>st</sup> defendant had changed the katha in the name of husband of 1<sup>st</sup> defendant to 1<sup>st</sup> defendant name as per pouthi khata MR H20/2023-24. The husband of 1<sup>st</sup> defendant had decided to alienate the suit schedule property for the family commitment and his financial necessities, plaintiff had orally informed you about the sale transaction of the suit schedule property, 1<sup>st</sup> defendant had agreed to execute the sale deed infavour of plaintiff. Thereafter 1<sup>st</sup> defendant had deliberately



avoided the execution of sale deed one are the other reasons. In spite of that plaintiff had made best effort to perform her part of contract but defendants are not come forward to execute the sale deed with respect of the schedule property infavour of plaintiff, defendants are liable and bound to discharge the liabilities of deceased Srinivas who is the vendor of plaintiff and husband of 1<sup>st</sup> defendant and father of defendant No.2 and 3. On all these grounds plaintiff prays to allow the application.

**3.** On the contrary, defendant have appeared through their counsel and filed written statement along with memo for adopting the written statement as objection to the IA U/o 39 Rule 1 & 2 of CPC. The defendant contention is that, the claim of the plaintiff is baseless and liable to be dismissed with cost. The husband of the defendant has never executed any alleged agreement of sale deed infavour of plaintiff and not received any consideration amount.



The defendant submits after death of her husband she obtained pouthi katha of the suit schedule property in her name and she is in lawful possession over the said property. Except suit schedule property the defendant have no other property for their livelihood. On the above said ground defendant submits application filed by the plaintiff is not maintainable and same is liable to be dismissed.

4. Heard and perused material available on record.
5. On perusal, following points arise for my consideration:
  - i: Whether the plaintiff has made out prima facie case ?
  - ii. Whether balance of convenience lies in favour of plaintiff ?
  - iii: Whether plaintiff would be put to irreparable loss and hardship if the injunction is not granted ?
  - iv: What order ?



6. My answers to the aforementioned points are as under:

**Point No.i : In the affirmative,**

**Point No.ii : In the affirmative,**

**Point No.iii : In the affirmative,**

**Point No.iv: As per the final order**

**for the following;**

#### **REASONS**

7. **Point No.i:** The plaintiff has instituted this suit against the defendants for specific performance and such other relief.

8. The contention of the plaintiff is that, the Defendant No.1 behind his back trying to alienate the suit schedule property. Further the plaintiff submits that, husband of defendant No.1 agreed to sell the suit schedule property in her favour and received advance consideration amount of Rs. 3,30,000/- from the plaintiff. The plaintiff further submits he promise to receive the balance consideration amount of Rs. 45,000/- at the time of registration of



sale deed but the defendant No.1 husband died in the year 28.03.2023. So the plaintiff approach the defendant No.1 and requested her to execute the sale deed in her favour by receiving balance consideration amount. But the defendant No.1 not ready to execute the sale deed. Hence plaintiff approached the court of law. The plaintiff submits that, her husband never executed any agreement of sale deed infavour of plaintiff and there is no other properties is in the name of defendant family and defendants are depending on suit schedule property for their livelihood.

The documents produced by the plaintiff is pertaining to the suit schedule property disclosed that, The defendant is in possession over the property bearing Sy No. 345/2. Further the plaintiff also produced copy of agreement of sale deed pertaining to the suit schedule property, alleged to be taken place between plaintiff and defendant.



9. This court perused documents available on record. At this juncture, this Court places reliance to decision reported in **ILR 1989 Kar.962** and the ratio is extracted below:

*“ Grant of ad-interim injunction has to course or pass through the following slots:*

*(a) Prima facie case*

*(b) balance of convenience*

*(c) irreparable injury to the plaintiff and*

*(d) lastly all injunction being absolutely discretionary in nature whether there was any over riding consideration that enabled the refusal of the injunction by the court below.*

The ratio is aptly applicable to the present case. The very purpose of issuance of temporary injunction is that, at initial stage the suit schedule property or counter claim property as a case may be shall have to be protected. Under such case plaintiff has to invariably must make out prima facie case, balance of convenience



and irreparable loss, which can not be compensated by any means, for non grant of temporary injunction by this Court.

**10.** The plaintiff in support of his claim he produced the agreement of sale deed, before the court to prove the fact that, there is a agreement of sale was taken place between plaintiff and husband of defendant No.1. On the other side the burden is on the defendants to prove the fact that there is no such agreement was taken place between plaintiff and Srinivasa S/o Girigowda. But the defendant not produced any documents to prove the same.

**11.** Therefore, on the basis of documents which is produced by the plaintiff this Court comes to the conclusion that the plaintiff has made out prima facie case. At this juncture, this Court thinks for proper disposal of the case, granting temporary injunction as prayer made by the plaintiff is proper. That, at this juncture, this



Court for the up shot reasons and discussions is of the considered opinion that non grant of temporary injunction till disposal of the case, causes irreparable loss to the plaintiff, which can not be compensated by any means. The contention taken by the defendants should required full fledged trial. Hence, this Point No.I is answered in the **Affirmative**.

**12. Point No.ii & iii:** With regard to balance of convenience and irreparable loss is concerned, balance of convenience is the relative factor which means the comparative loss caused to the party, in case the injunction is not granted. In this case, the plaintiff has made out prima facie case as discussed above and balance of convenience lies in favour of him. If T.I is not granted infavour of the plaintiff, he may suffer irreparable loss and hardship. Hence, these two points are answered in the **Affirmative**.



**13. Point No.iv** : In view of findings on point No. 1 to 3, this courts proceed to pass the following :

**ORDER**

**I.A. No.II filed by the Plaintiff under O. 39. R. 1 & 2 of C.P.C, hereby allowed.**

**The defendants servants, agents, or anybody acting, on her behalf restrained from selling/alienating the suit schedule properties in any manner, till disposal of the suit.**

**No order as to cost.**

*(Dictated to the stenographer directly on Computer, typed by her, corrected, signed and then pronounced by me in the open court on **18<sup>th</sup> Day of December 2025**).*

Sd/-  
**(VINAY .V. KUNDAPUR)**  
**II Addl. Civil Judge & JMFC.,**  
**Kanakapura**









(Order pronounced in open court



vide separate order)

**ORDER**

I.A. No.II filed by the Plaintiff under  
O. 39. R. 1 & 2 of C.P.C, hereby allowed.

The defendants servants, agents, or  
anybody acting, on her behalf restrained  
from selling/alienating the suit schedule  
properties in any manner, till disposal of  
the suit.

No order as to cost.

**II Addl. Civil Judge & JMFC.,  
Kanakapura**

For issues

Call on:29.01.2026

**II Addl. Civil Judge & JMFC.,  
Kanakapura**

