



IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC.,
AT MAGADI.

:-Present:-

Sri. Shrinivasa K.R. B.A.L., LL.M.,
Prl. Civil Judge & JMFC.,
Magadi.

Dated this the 26th day of March, 2026

OS No.463/2025

PLAINTIFF : Smt.Hemalatha.C
W/o Prasanna Kumar.T.

:V/s:

DEFENDANTS : Sri.Hanumaiah S/o Late Gudiyappa
and others.

I.A. No. I

APPLICANT/
PLAINTIFF : Smt.Hemalatha.C,
W/o Prasanna Kumar.T,
Aged about 47 years,
Residing at # 350, Ist main,
1st cross, Thindlu,
Vidyaranyapura Post,
Bengaluru-560097.

(By Sri.B.K., Advocate)

:Vs:



**OPPONENTS/
DEFENDANTS :**

1. Sri.Hanumaiah,
S/o Late Gudiyappa,
Aged about 75 years,
2. Smt.Rangamma,
W/o Hanumaiah,
Aged about 66 years,
3. Sri.Murthy,
S/o Hanumaiah,
Aged about 36 years,
4. Kum.Jayalakshmi,
D/o Hanumaiah,
Aged about 34 years,
5. Sri.Gurumurthy,
S/o Hanumaiah,
Aged about 32 years,

All are residing at
Gangonahalli Village,
Gangonahalli Post,
Thippasandra Hobli,
Magadi Taluk,
Ramanagara District.

(By Sri.S.M., Advocate)

**ORDER ON IA.NO.I FILED U/O 39 RULE 1 AND 2 OF CPC**

The plaintiff has filed application U/O 39 rule 1 & 2 CPC with a prayer to restrain the defendants, their agents, servants or any other persons claiming under them, from alienating the suit schedule property. The application filed in respect of property bearing khatha No.24 khaneshumari No.1 measuring to an extent east to west 35 feet and north to south 45 feet, situated at Gangonahalli Village, Thippasandra Hobli, Magadi Taluk, Ramanagara District bounded on:

East by : Government Road.

West by : Rangaiah House and Wastage.

North by : Poojari Gudiyappa House and Wastage.

South by : Anjinappa and others property.

2. The application is supported with an affidavit sworn by the plaintiff stating that, the defendants are absolute owners in possession and enjoyment of suit schedule property.



The defendants were in need of urgent money for their family and legal necessities hence, defendants offered to sell the suit schedule property to the plaintiff. The plaintiff agreed to purchase the suit schedule property for a sale consideration amount of Rs.45,000/- and said total consideration amount paid by way of cash on the date of agreement of sell dated 23.09.2013. The defendants agreed to complete the sale transaction at an earliest and there is no time from the date of execution of the agreement. After received the said amount, the defendants have received the additional amount on several days for their day-to-day expense.

Further contended that, the plaintiff was ready and willing to perform her part of contract but the defendants did not come forward to execute register the suit schedule property in favour of plaintiff. The defendants have failed to perform their part of contract and also not comply with the terms of the agreement to sell dated 23.09.2013. The plaintiff



issued legal notice to the defendants on 30.06.2023 calling upon the defendants to execute the sale deed and the legal notice duly served. The defendants have put the plaintiff in possession and the defendants have assured to secure the documents with respect to the suit schedule property and the defendants failed to secure the documents and register the suit schedule property in favour of plaintiff. Hence, prays to allow the application.

3. The defendant No.1 to 5 appeared through their counsel file written statement and filed memo stating written statement of defendant No.1 to 5 may be treated as objections on application. The defendant No.1 to 5 contended that, defendants entered in to an agreement of sale dated 23.09.2013 with the plaintiff but after some time the plaintiff not shown interest in purchasing the suit schedule property and around July-2015, plaintiff demanded the defendants to return of the amount paid. Accordingly, the defendants



returned the said amount to the plaintiff and requested her to return the agreement and other related documents but plaintiff gave evasive replies and stated that, the agreement had been misplaced and lost. The defendants did not pursue the matter further as the plaintiff is a relative of defendants. After an inordinate and unexplained delay of 12 years, the plaintiff has filed the present suit with an intention to grab the suit schedule property. The plaintiff has paid tax and kandaya in respect of the suit schedule property in her name, even though the property continued to stand in the name of the defendants. The relief claimed by the plaintiff is barred by law of limitation. Hence, prays to reject the application.

4. Heard arguments by plaintiff and defendants counsel.

5. Upon materials placed on record, following points that arise for my consideration:



1. Whether plaintiff has made out a prima-facie case?
 2. Whether balance of convenience lies in favour of plaintiff ?
 3. Whether irreparable injury and hardship would cause to the plaintiff, if temporary injunction is not granted ?
 4. What order?
6. My answer to the above points are as under.

Point No. 1 to 3 : In the ***Negative.***

Point No. 4 : As per order
for the following;

REASONS

7. **POINT No.1**: Law relating to grant or refusal to grant temporary injunction has been culled out by the Hon'ble Supreme Court of India in ***AIR 1999 SUPREME COURT 3105*** (Colgate Palmolive (India) Ltd., v. Hindustan Lever Ltd.,) it is held as under:



“Civil P.C. (5 of 1908), O. 39,R.1:

Certain specific considerations to be noted in the matter of grant of interlocutory injunction, the basic being non-expression of opinion as to the merits of the matter by the Court, since the issue of grant of injunction usually, is at the earliest possible stage so far as the time frame is concerned. The other considerations which ought to weigh with the court hearing the application or petition for the grant of injunctions are as below:- (i) Extent of damages being an adequate remedy; (ii) Protect the plaintiff's interest for violation of his rights though, however, having regard to the injury that may be suffered by the defendants by reason therefor; (iii) The Court while dealing with the matter ought not to ignore the factum of strength of one party's case being stronger than the others; (iv) No fixed rules or notions ought to be had in the matter of grant of injunction but on the facts and circumstances of each case-the relief being kept flexible; (v) The issue is to be looked from the point of view as to whether on refusal of the injunction the plaintiff would suffer irreparable loss



and injury keeping in view the strength of the parties case; (vi) Balance of convenience or inconvenience ought to be considered as an important requirement even if there is a serious question or prima facie case in support of the grant; (vii) Whether the grant or refusal of injunction will adversely affect the interest of general public which can or cannot be compensated otherwise.”

8. Keeping in mind the well settled legal principles regarding granting or refusal for granting Temporary Injunction enunciated in the above cited decision, let me advert to consider the case of the parties. The plaintiff has filed suit for the relief of specific performance.

9. The contention of the plaintiff is that, the defendants approached the plaintiff to purchase the suit schedule property for their family legal necessities. The plaintiff agreed to purchase the suit schedule property for sale consideration of Rs.45,000/- and on 23.09.2013 the



defendants executed an un-registered agreement of sale in favour of the plaintiff and received entire sale consideration amount and agreed to execute the registered sale deed in favour of plaintiff by collecting documents with respect to suit schedule property. The plaintiff on several time approached and requested the defendants to execute a sale deed with respect to suit schedule property but, the defendants postponed the registration of the sale deed by giving one or the other reasons. On the date of execution sale agreement itself the possession of suit schedule property delivered to the plaintiff and the plaintiff is in possession and enjoyment of suit schedule property. There is no time to execute sale deed in favour of plaintiff. If the suit schedule property is alienated it will lead multiplicity of proceedings. Hence, prays to allow the application.

10. On the other hand defendants counsel contended that, the defendants several time requested the plaintiff to get



the sale deed but, the plaintiff not shown interest to purchase the suit schedule property hence, the defendants returned the sale consideration amount to the plaintiff and requested the plaintiff to returned the agreement. If the plaintiff is in possession and enjoyment over the suit schedule property, she could have paid tax but, the tax paid receipt produced by the plaintiff itself shows that, in the year 2014, 2016, 2021 and 2022 the tax paid in the name of defendant No.1. The plaintiff in her plaint stated that, the defendants have received amount in additional on several days but, there is no document with respect to payment of additional amount. Since 2013, the plaintiff not shown her readiness and willingness to purchase the suit schedule property hence, plaintiff is not ready and willing to purchase the suit schedule property. Hence, prays to reject the application.

11. The plaintiff in support of her contention has produced the copy of sale agreement dated 23.09.2013, copy of



legal notice dated 30.06.2025 and tax paid receipt. I have carefully gone through sale agreement dated 23.09.2013 as per agreement the defendants agreed to sell the suit schedule property in favour of plaintiff for a totally sale consideration amount of Rs.45,000/- and agreed to execute registered sale deed in favour of plaintiff and as on the date of agreement defendants received entire total sale consideration amount. The said agreement executed in the year 2013, no doubt in the agreement it is not stated to get the registered sale deed within specified time but, it is only stated that, after getting documents with respect to suit schedule property sale deed shall be execute but, I have carefully gone through the plaintiff avernments, the plaintiff stated that, she was always ready and willing to perform her part of contract but, at this juncture the plaintiff not filed any documents to show that, the plaintiff had issued notice to the defendants to execute registered sale deed in her favour because as already stated



above the agreement was executed in the year 2013 and since 2013 till 2025 the plaintiff kept quiet. The defendants in their written statement stated that, the plaintiff not shown her interest to purchase the suit schedule property as per agreement and around July-2015 plaintiff demanded the defendants to return the sale consideration amount and accordingly, defendants returned the said amount. Therefore, whether the plaintiff was ready and willing to perform her part of contract has to be adjudicate with proper evidence therefore, the plaintiff at this juncture has not established prima-facie case by placing prima-facie materials. Under the circumstances, I am of the opinion that plaintiff has not made out prima-facie case in her favour. Accordingly, I answer point No.1 “in the ***Negative***”.

12. **POINT No.2 and 3:-** These points are taken up together for discussion for the sake of convenience. The person who approaches the court for equitable remedy of temporary



injunction, besides making out strong prima-facie and must necessarily show that balance of convenience lies in favour and shall also satisfy that irreparable loss and hardship would be caused to him/her, which can not be compensated in terms of money. Therefore, it is incumbent upon the plaintiffs to show that the balance of convenience lies in his favour.

13. In considering the question of balance of convenience the court has to consider to whom more hardship or inconvenience would be caused. Whether the defendants not executed sale deed even though demand of plaintiff has to be adjudicate with proper evidence. Therefore, if temporary injunction is granted the defendants would be put to loss and hardship. Has discussed supra plaintiff has not established prima-facie. Accordingly, I answer points 2 and 3 in the ***Negative.***



14. **POINT No. 4:** In view of my findings to points No.1 to 3, I am of the considered opinion that, plaintiff has not made out prima-facie case. Besides this the plaintiff has not established that balance of convenience lies in her favour and irreparable injury would be caused to her, if an order of temporary injunction is denied. Therefore, the plaintiff is certainly not entitled for the relief of temporary injunction. Accordingly, I proceed to pass the following;

O R D E R

I.A. No.I filed by the plaintiff under
Order XXXIX Rule 1 & 2 R/w Section
151 of CPC, is hereby rejected.

No order as to cost.

(Directly dictated to Stenographer directly on the Computer, typed by her, then corrected and pronounced by me in the open Court on this the **26th day of March, 2026.**)

**Prl. Civil Judge & JMFC,
Magadi.**