

KAUK510003662023



IN THE COURT OF CIVIL JUDGE & JMFC, HALIYAL

AT: HALIYAL, UTTARA KANNADA

Dated this 13th day of March, 2026

PRESENT

Smt. Geeta. B.A.LL.B (Hon's) LL.M.,
Civil Judge and JMFC, Haliyal

ORIGINAL SUIT NO.33/2023

BETWEEN:

1. Smt. Basavenneva W/o Krishna Dandi,
Age: 68 years, Occ : Agriculture and Housewife,
R/o : Chowki Math Hosur Galli, Haliyal,
Tq: Haliyal, Dist: Uttara Kannada.

.....Plaintiff

(By Sri. S.K.K, Advocate)

AND:

1. Sri. Parashuram S/o Anant Kaktikar
Age: 44 years, Occ: Business,
R/o. Om Nagar, 1st Cross Kalyani Layout Kashabag
Belagavi, Tq and Dist: Belagavi.
And others

.....Defendants

**(Deft No.1 to 3 By Sri. S.I.G, Advocate, Deft No.4 By
Sri. A.G.P, Advocate and Deft No. 5 and 6 Smt. S.R.G.
Advocate)**

I.A.No.VIII**Applicant/Pliff : Smt. Basavenneva W/o Krishna Dandi.****-Vs.-****Opponents/Defts : Sri. Parashuram S/o Anant Kaktikar and others.****ORDER ON I.A.No.VIII**

The plaintiff filed I.A No.VIII under Order 39 Rule 1 and 2 R/w Section 151 of C.P.C., praying to grant temporary injunction restraining defendant No.5 and 6 from alienating the suit property, till disposal of this suit in the interest of justice and equity.

2. In the affidavit plaintiff stated that, she filed this suit for cancellation of sale deed and for injunction. The defendant No.5 and 6 purchased suit property from defendant No.3 during pendency of this suit and mutated their names in the record of rights. Now the defendant No.5 and 6 are intending to alienate suit property to 3rd parties. If they alienate suit property plaintiff will be put to great loss and hardship. If the application is allowed, no loss or hardship will be caused to other side, on the contrary, she will be put to hardship. With these contentions, plaintiff prayed to allow the application.

3. The defendant No.5 and 6 have filed objection to the application contending that, initially plaintiff filed same application and sought for same relief against defendants, said application was dismissed by the court after considering oral

and documentary evidence. Now the plaintiff again came up with this application seeking same relief against defendant No.5 and 6 which is barred. Neither plaintiff is owner of suit property nor having possession as such, plaintiff has does not have locus standi to file present application against true owners and bonafide purchasers. The interim application is bad in the eye of law, plaintiff has not shown cause of action to file present application. With these contentions, defendant NO.5 and 6 prayed to reject the application.

4. Heard counsels for plaintiff and defendants.

5. Now the points that arise for consideration are as under;

1. Whether the plaintiff has made out prima facie case to grant of temporary injunction?

2. Whether the plaintiff proves balance of convenience lies more in her favor?

3. Whether the plaintiff proves irreparable loss will be caused more to her, if temporary injunction is not granted?

4. What order?

6. Answers on above points are as follows;

Point No.1 : In Affirmative

Point No.2 : In Affirmative

Point No.3 : In Affirmative

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

REASONS

7. **POINT NO.1 TO 3:-** In order to avoid the repetition of facts and for the sake of convenience, these points are taken together for discussion.

It is the case of plaintiff that, she is the absolute owner of suit property, which is her Stridhan property. In order to meet out her family necessities she decided to sell said property, at that time defendants approached her and after negotiation defendant no.1 and 2 agreed to purchase suit property for consideration of Rs.3,00,000/-. Therefore, she executed sale deed on 25.07.2022 and the defendant no.1 and 2 paid consideration amount through cheques. Thereafter defendants approached plaintiff on 07.10.2022 and said that they intended to cancel sale deed dated 26.07.2022 as the property is facing litigation. On the same day plaintiff and defendant have agreed to enter into an agreement to cancel sale deed and the defendants agreed to return suit property. The plaintiff has refunded entire consideration amount but, the defendant No.1 and 2 transferred to suit property to defendant No.3 through Gift deed. Now the suit property is standing in the name of defendant No.3. Thereafter, plaintiff impleaded defendant No.5 and 6 contending that defendant No.3 sold suit property to the

defendant No.5 and 6. After appearance defendant No.5 and 6 admitted that they have purchased suit property from defendant No.3.

8. In order to prove her contentions plaintiff relied on the documents marked by her as EX.P.1 to 8. Ex.P.1 and 2 are the sale deed dated 25.07.2022, as per these documents plaintiff sold suit property to defendant No.1 and 2 for consideration of Rs.3,00,000/-. Ex.P.3 is the RTC extract of suit property for the year 2022-23, wherein land measuring 09 guntas 08 annas stands in the name of defendant No.1 and 2. As per Ex.P.4 RTC extract for the year 2021-22 land measuring 09 guntas 08 annas stands in the name of plaintiff. Ex.P.5 is the MR No.T3/2017-18, wherein 09 guntas 08 annas out of RS No.29/A/3 mutated in the name of plaintiff. As per Ex.P.6 RTC extract of suit property for the year 2022-23 suit property stands in the name of defendant No.3 by virtue of Gift Deed. Ex.P.7 is the MR No.H5/2022-23 suit property was mutated in the name of defendant No.2 and 3. EX.P.8 is the certified copy of registered sale deed dated 06.07.2024, as per this document defendant No.3 sold suit property to defendant No.5 and 6.

9. On perusal of documentary evidence, it appears that originally suit property is standing in the name plaintiff and she sold it to defendant No.1 and 2. Thereafter, defendant No.1 and 2 executed Gift deed in favour defendant No.3 as such, his name was mutated in the property records.

Thereafter, plaintiff filed this suit for cancellation of sale deed, alleging that she refunded entire consideration amount to defendant no.1 and 2, in spite of the same they have not cancelled sale and gifted suit property to defendant no.3. During pendency of this suit, defendant No.3 sold suit property to defendant No.5 and 6 and now the suit property is standing in the name of defendant No.5 and 6. It shows that during pendency of this suit, the defendants are transferring suit property to 3rd parties. If the defendant No.5 and 6 again alienates suit property to 3rd parties certainly, it will lead to multiplicity of proceedings and cause delay in disposal of the suit.

10. Further, it is true that, plaintiff has not produced a single document to show that, she has returned consideration amount to defendant No.1 and 2, when they agreed to cancel sale deed and not produced any documents to show that defendant no.5 and 6 are trying to alienate suit property but still, at this stage of the suit if the defendant No.5 and 6 alienates suit property to 3rd parties it will lead to multiplicity of proceedings and delay in disposal of the suit. Therefore, at this stage plaintiff has made out prima facie grounds to grant temporary injunction.

11. Further, if defendant No.5 and 6 are restrained from alienating suit property, no loss or hardship will be caused to them. Therefore, at this stage plaintiff has made out prima facia grounds, the balance of convenience lies in favour of

plaintiff, if temporary injunction is not granted plaintiff will be put hardship. Therefore plaintiff has made out to grant temporary injunction. Hence, **I answer Point No.1 to 3 in Affirmative.**

12. POINT NO.4:- In view of the discussion on Point No.1 to 3 and for the reasons stated therein, I proceed to pass the following;

ORDER

I.A.No.VIII filed by the plaintiff under Order 39 Rule 1 and 2 of C.P.C., is hereby allowed.

The defendant No.5 and 6 are hereby restrained from alienating suit property till disposal of suit.

No order as to costs.

(Dictated to the Stenographer directly on system, typed by her, then corrected, signed and pronounced by me in the Open Court on this the **13th day March, 2026**)

**Sd/-
(GEETA)
Civil Judge and JMFC.,
Haliyal**