

KAUK520002772025



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND
J.M.F.C. HALIYAL, AT: HALIYAL**

**PRESENT : Smt. Sujata Sidagouda Patil.
B.Sc. L.L.B.,
Senior Civil Judge,Haliyal.**

O.S.No. 12/2025

Dated this the 12th day of September 2025

Applicant:- Sri. Mansoor S/o M.K Ahmed Shaikh,
(Plaintiff) R/o Near Neharu Garden, Bombay Chawl,
Dandeli.

(By- Sri. M.C.H, Adv.)

V/s

Opponent:- Smt. Shaheeda W/o Abdul Sattar Kollur,
(Defendant) R/o Near Faisal Masjeed, Township, Dandeli.

(By- Sri. P.N.M, Adv.)

ORDER ON I.A.NO. I.

The application is filed by the plaintiff under Order 39 Rule 1 & 2 R/w Sec.151 of CPC seeking interim relief against the defendant during pendent of suit requesting the court to grant interim relief of injunction order by restraining the

defendant from alienating or creating encumbrance on the suit property till disposal of the suit.

2. To support above said application, the plaintiff filed his affidavit by stating that with respect to the suit property, defendant has ownership through registered sale deed dated 14-04-2017 and that has been agreed to sell in favour of the plaintiff. After purchase of that property, defendant has constructed residential house. Accordingly sale agreement was executed on 08-02-2022 for sale consideration amount of Rs.9,40,000/-. As per Class 6 of very agreement they had difficulty in obtaining of document. Therefore defendant has executed another sale agreement on 13-02-2023 by receiving of advance amount of Rs.5,00,000/- and agreed to execute registered sale deed within a period of 6 months. But he failed to execute registered sale deed, plaintiff is ever ready to perform his part performance to make payment of balance sale consideration amount of Rs.4,40,000/-, but defendant has changed his mind and showing his reluctance towards executing of registered sale deed with respect to the suit property. Therefore without having alternative remedy by issuance of prior notice, plaintiff approached with present suit and filed this interim application against the defendant.

3. On the contrary defendant appeared and filed her objection to I.A.No.I by stating that the present application is

not at all maintainable in the eye of law and the entire contents have been specifically denied by the defendant. Further she admits that as per agreement terms and conditions, she has to make payment of balance sale consideration amount of Rs.4,40,000/- within the period of 5 months and defendant has clearly given picture of the suit property that, the ownership of the suit property is lying with the City Municipality Council, Dandeli. Knowing well this fact plaintiff has not co-operated with the defendant, approached court with present suit. Further it is contended that agreement dated 08-02-2022 is time barred agreement. Hence based on it plaintiff is not entitled for any relief against the defendant. Therefore prayed for rejection of the application along with suit as not tenable under law.

4. Heard on I.A and perused the grounds urged therein. On hearing and on perusal of the relevant materials on record, the following points arise for my consideration:

POINTS

- 1) Whether the applicant/plaintiff proves that he has got prima facie case in his favour?**
- 2) Whether applicant/plaintiff further proved the balance of convenience lies in his favour?**

3) Whether irreparable injury will be caused in case of rejection of injunction?

4) What order?

5. My findings on the above points are as under:

Point No.1 : In the Affirmative.

Point No.2: In the Affirmative.

Point No.3: In the Affirmative.

Point No.4: As per final order on this I.A, for the following:

REASONS

6. Point No. 1 to 3 :- Since these points are inter connected to each other, in order to avoid repetition taken together for discussion.

It is observed that there is not dispute regarding execution of agreement with respect to the suit property including receipt of advance amount of Rs.5,00,000/- by the defendant. But defendant defending this suit by saying that earlier agreement dated 08-02-2022 is time barred, but either expressly or impliedly she never denied execution of 2nd agreement dated 13-02-2023. He also admits entire sale consideration amount of Rs.9,40,000/-.

7. It is observed that parties have submitted original sale agreements dated 08-02-2022 & 13-02-2022, in which the

defendant never denied the signatures. It is further observed that defendant has got sole authority to get execute sale transaction with the suit property. Hence though she denied subsequent sale agreement dated 13-02-2023, but to show due execution of those both agreements, plaintiff has produced both original agreements. Hence apart perusal of contents of both agreements, it is crystal clear that defendant has to execute registered sale deed in respect of the suit schedule property, but as per defense of the defendant it has been contended that the entire amount is to be paid within 5 months is not proper version taken by the defendant in which it has been mentioned 6 months. But even after failure of payment of entire sale consideration amount by the plaintiff, as on today amount which is invested by the plaintiff is to be taken into consideration. If defendant succeeds in selling of suit property in favour of the 3rd party, then filing of suit itself frustrates and plaintiff may suffer loss, hardship and inconvenience.

8. In this regard I have gone through the reported judgment of Hon'ble Apex Court held between M/s Siddam Shetty Infra Projects Private Ltd., V/s Katta Sujatha Reddy, in which Hon'ble Supreme Court meticulously dissected the contractual obligations stipulated under the agreement, it analyzed Sec.10 of Specific Relief Act(as per amended Act, 2018) which provides court discretionary power to enforce the specific performance contract when monetary compensation is

inadequate. The parties entering into sale agreement must meticulously adhere to contractual obligations and be cognizant of legal implications of their actions to avoid adversities in enforcing their right. Further it held that a crucial precedent in the realm of the property law and contract enforcement. By elucidating the proper interpretation of contractual clauses, affirming the binding nature of the lis pendens doctrine and delimiting the stringent requirement for specific performance, the court has fortified the legal framework governing immovable property transactions. In which the Hon'ble Apex Court also discussed the principles which have already been discussed in reported case held between Sarada Mani Kandappan V/s Rajalakshmi. Further Hon'ble Apex Court has held that through contents of agreement gathered the intention of parties petitioner failed to demonstrate readiness and willingness to perform the contract, the necessary criteria U/Sec.16(c) of Specific Relief Act. This judgment reinforces the importance of precise contractual interpretations and adherence to stipulated time frames it underscores,

1) Courts must diligently interpret contractual clauses to ascertain the true intent of the parties involved.

2) The doctrine of lis pendens serves as a critical tool to prevent the alienation of the property during pendent on going litigation, ensuring the efficacy of judicial

proceedings.

3) Specific performance remains discretionary remedy contingent upon plaintiff's demonstration of readiness and willingness to fulfill the contractual obligation.

Hence as per guidelines given by the Apex Court, the investment made by the plaintiff and his readiness towards payment of balance sale consideration amount is to be taken into consideration. In order to avoid the multiplication of proceedings it is fit case to grant injunction order against by restraining her from alienating or creating encumbrance on suit property. Therefore plaintiff has made out prima-facie case and by virtue of investment made by him with respect to the suit property. Balance of convenience is lying in favour of the plaintiff. If as per prayer of this application interim injunction order is not granted to the plaintiff, then he may suffer great hardship and inconvenience which cannot be compensated any kind of money adequately. Hence **Points No.1 to 3 are answered in the Affirmative.**

9. **Point No. 4** :- In the light of the findings given on the above points, I hereby proceed to pass the following:-

ORDER

**I.A.No.I filed by the applicant/plaintiff
Under Order XXXIX Rule 1 and 2 R/w
Section 151 of C.P.C. is hereby allowed.**

**The defendant is hereby restrained from
alienating or creating encumbrance on the suit
schedule property by way of temporary
injunction till further order.**

No order as to costs.

(Dictated to the Stenographer, transcribed and typed by him,
corrected by me and then pronounced in the open Court on this
12th day of September 2025)

**(Smt. Sujata Sidagouda Patil.)
Senior Civil Judge, Haliyal.**