

KAKL020026692024



**IN THE COURT OF III ADDITIONAL SENIOR CIVIL JUDGE
AND JMFC AT KOLAR**

PRESENT:

Smt. LAKSHMI.M.V, B.A., LL.B.,
III Addl. Senior Civil Judge & JMFC.,
Kolar.

Dated 24th day of September 2025

O.S.NO. 428/2024

Plaintiffs :

1. Sri. G.R.Subramani,
S/o G.A.Ramaiah,
Aged about 53 years,

2. Smt. Brunda.N,
W/o G.R.Subramani,
Aged about 38 years,

Both are R/at: No.56,
Varthur Road, Gunjur,
Bengaluru.

(Reptd by Sri. MLS - Adv)

V/s

Defendants:

1. Sri. L.Srinivasan,
S/o late Lakshmaiah,
Aged about 57 years,
R/at: No.238, 5th Main Road,
Amulya Park, N.R.I Layout,
Kalkere, Bengaluru.

2. Smt. B.N.Shashikala,

S/o Shashidar Reddy,
Aged about 48 years,
R/at: No.86, 2nd Cross,
Anjineya Temple Street Road,
Doddabanaswadi, Bengaluru.

3. Sri. Nagesh.P.V,
S/o Venkateshappa,
Aged about 40 years,
R/at: Behind Travelers Bungalow,
Vemgal Town and Hobli,
Kolar Taluk and District.

4. Sri. Venkateshappa
S/o Munikempanna,
Aged about 67 years,
R/at: Perjenahalli Village,
Vemagal Hobli, Kolar Taluk & District

5. Sri. Govindappa.V,
S/o late Venkataramanappa,
Aged about 69 years,
R/at: Govindappa Building,
Avalahalli Village, Virgonagar Post,
Bengaluru.

**(D1, D2, D4 & D5 Reptd by Sri. TMS - Adv)
(D3 placed as exparte)**

PARTIES TO I.A. I

Applicants : Sri. G.R.Subramani,& others

V/s.

Opponents : Sri. L. Srinivasan & others

**ORDERS ON I.A.1 FILED BY THE PLAINTIFF NO.1
UNDER ORDER 39 RULE 1 AND 2 OF CPC**

The plaintiff No.1 have filed IA.1 No.1 U/o. 39 Rule 1 and 2 of CPC., seeking an order of temporary injunction

against restraining the defendants, from alienating the suit schedule properties in favour of any third party by way of sale, mortgage, gift or any other mode of alienation known to law, till the disposal of the above case, in the interest of justice and equity.

2. The applicant in the application the annexed with affidavit it is sworn that, the defendant No.1 who was in dire need of funds for his family necessities and other commitments, he had approached applicant with a request to purchase the said properties. The defendant No.1 brought the original documents in respect of the above said three lands and assured them he is the absolute owner and he intended to sell the same and after negotiations the plaintiffs and defendant No.1 has agreed to sell the above said three properties to plaintiff for a total sale consideration of Rs.56,00,000/- and further the defendant No.1 has received a sum of Rs.11,00,000/- as advance.

3. Further, it was agreed that, they shall pay the remaining balance sale consideration amount of Rs.45,00,000/- was agreed to be paid at the time of registration of the sale deed in respect of the aforesaid three properties. It was agreed that the defendant No.1 shall execute the sale deed in their favour within 1 year from the date of the agreement. Under the said sale agreement, the defendant No.1 has handed over all the original documents in respect of the aforesaid land to our custody. They had

several times requested and demanded the defendant No.1 to come and execute the sale deed by obtaining necessary documents receiving the balance sale consideration amount of Rs.45,00,000/- despite several requests and demands, the defendant No.1 did not come forward to execute registered sale deed in their favour and whenever they requested the defendant No.1 for registration of the sale deed, the defendant No.1 has been dragging on the execution of sale deed.

4. In the meantime on 24-11-2020, the defendant No.1 has approached them and requested us to pay further advance of Rs.5,00,000/- and accordingly they have paid the said amount of Rs.5,00,000/- by way of cash and the defendant No.1 has executed a shara to the said effect. Again on 20-12-2021, the defendant No.1 has approached us and requested to pay further advance of Rs. 10,00,000/- and they have paid the said sum of Rs. 10,00,000/- on 20-12-2021 by way of RTGS from the account of Mr. G.R.Subramani and thus in all the defendant No.1 sale consideration amount of Rs.26,00,000/- as advance sale consideration amount. They have to pay the balance amount of Rs.30,00,000/- The defendant No.1 has executed the shara to the said effect in the sale agreement.

5. Further stated that, they are always ready to perform their part of contract to get the sale deed registered in their names by paying the balance sale consideration amount of

Rs.30,00,000/- and they had several times approached the defendant No.1 and demanded to execute the sale deed by receiving the balance sale consideration amount. But for the reasons best known to him, the defendant No.1 has been dragging on the same on one or the other pretext. Without any alternative, they got issued the legal notice dated 23-2-2024 to the defendant No.1 Failing upon the defendant No.1 to execute the registered sale deed in their favour in respect of above said three properties. The said legal notice is duly served on the defendant No.1. Even after service of the notice, the defendant No.1 did not come forward either to comply the demands made in the said legal notice nor caused any reply.

6. Further stated that, as the defendant No.1 did not come forward to execute the sale deed, and hence with an intention to file this suit they obtained the present RTC and were shocked to see that, the defendant No.1 has already sold the land bearing Sy. No.154/4 measuring 0.25.08.00 Guntas in favour of the defendant No.3 on 16-8-2017 itself, i.e, prior to execution of the sale agreement in their favour. The defendant No.1 has sold the land bearing Sy.No.154/2 in favour of the defendant No.2 under a registered sale Deed dated 27.3.2018 and similarly the defendant No.1 has sold the land bearing Old Sy.No.43/5, new Sy. No.43/7 in favour of the defendant No.3 under the sale deed dated 20-5-2022. The aforesaid sale deeds are executed during the

subsistence of the sale agreement in their favour and hence the said sale deeds are required to be declared as null and void and not binding on our share.

7. Further stated that the defendant No.1 had total sale agreed to sell the above said three lands totally measuring 4 Acres 39 Guntas for a consideration amount of Rs.56,00,000/- and hence the cost of 1 gunta of land comes to Rs.28,140/- per gunta. Now as they are not claiming the land measuring 154/4, measuring 25.08 Guntas and hence the sale consideration amount of the said land to the tune of Rs.7,26,030/- has to be deducted from the total agreed sale consideration. Therefore, now the total sale consideration amount comes to Rs.48,73,970/- and out of the said amount, they have already paid a sum of Rs.26,00,000/- and hence they are due and liable to pay a sum of Rs.22,73,970/- to the defendant No.1 and they are always ready and willing to pay the same and get the sale deed registered in their names.

8. Further stated that, the defendant No.2 and 3 are now making hectic efforts to alienate the suit schedule properties in favour of the third parties, during the existence of agreement of sale in our favour. The illegal acts of the defendants No.2 & 3 can be stayed only with the aid of this Court. Hence, this application. They have made out a prima facie case and the balance of convenience lies in his favour. If an order of temporary injunction is not granted they will be

put to great hardship and injury. On the other hand, the defendant will not be put to any hardship or injury. Hence this application.

9. The defendant No.2 has filed a memo to adopt his written statement as objections to IA. No.1 and contended that, the suit schedule item No.1, i.e, land bearing Sy. No.154/2, measuring 4 Acres, originally belongs to 1st Defendant. The 1st Defendant had purchased the suit item No.1 from V.S.Chandrappa and others through registered sale deed dated 15.02.2016, as per the registered sale deed, Mutation and RTC effected in favour of the 1st Defendant and the 1st Defendant is in lawful possession and enjoyment of suit item No.1. The 1st Defendant has sold the suit item No 1 i.e, land Sy. No.154/2, measuring 4 acres and other properties in favour of 2nd Defendant through registered sale deed dated 27.03.2018 and on the same day the 1st Defendant has delivered possession to the 2nd Defendant. As per the registered sale deed, Encumbrance Certificate and mutation extract, and RTC Extract are entered in the name of 2nd Defendant. Since from the date of purchase, till today the 2nd Defendant is in physical possession and enjoyment of suit schedule item No.2.

10. Further contended that, the suit schedule item No.2 has already converted from agricultural purpose to non agricultural purpose as per the orders passed by the Deputy Commissioner, Kolar District, Kolar, No.ALN/SR/(KO)74/16-

17 dated 23.07.2016. Further contended that, Plaintiffs have no manner of right of the suit schedule item No.I and he has created alleged agreement of sale in respect of suit item No.I to file a false suit against this Defendant and the Plaintiff has created the alleged sale agreement after the 2nd Defendant has purchased suit schedule item No.1 from the 1st Defendant. The Plaintiffs taking undue advantage of the alleged sale agreement in order to knock of the suit schedule item No.1 from the Defendant No.2, has filed this false and frivolous suit which is not maintainable either in law or on facts and the same is liable to be dismissed. Hence dismiss the suit.

11. I have heard the arguments on I.A. No. I.

12. Following points arise for my consideration are as under:

- 1. Whether the plaintiff No.1 has made out prima-facie case?**
- 2. Balance of convenience lies in whose favour?**
- 3. Whether the irreparable loss or hardship will be caused to the plaintiff, if injunction is not granted?**
- 4. What order?**

13. My findings on the above points are as follows:

Point No.1 to 3	: In the Affirmative
Point No. 4	: As per final order, for the following:-

REASONS

14. **Point No.1**: The applicant in the annexed affidavit to I.A. No.I, has contended that, the plaintiffs have filed a suit against the defendants for Specific performance of contract. the defendant No.1 who was in dire need of funds for his family necessities and other commitments, he had approached applicant with a request to purchase the said properties. The defendant No.1 brought the original documents in respect of the above said three lands and assured them he is the absolute owner and he intended to sell the same and after negotiations the plaintiffs and defendant No.1 has agreed to sell the above said three properties to plaintiff for a total sale consideration of Rs.56,00,000/- and further the defendant No.1 has received a sum of Rs.11,00,000/- as advance.

15. At this stage, without going in to the merits of case and holding mini trial, this court has considered the aspect of prima-facie case. At this stage, this court makes it very clear that this court is looking towards prima-facie case and not prima-facie title. It is well settled principles of law that at the time of disposing the Temporary injunction application, the court cannot go into the prima-facie title and only to consider whether the plaintiff has made out a prima-facie case for granting interim relief.

16. The power to grant temporary injunction is at the discretion of the court. This discretion, however, should be

exercised reasonably, judiciously and on sound legal principles. Injunction should not be lightly granted as it adversely affected the other side. The first rule is that the applicant must make out a prima-facie case in support of the right claimed by them. The court must be satisfied that there is a bonafide dispute raised by the applicant that there is a strong case for trial which need investigation and a decision on merits and on facts before the court there is a probability of the applicant being entitled to the relief claimed by them. The existence of a prima-facie right and infraction of such right is condition precedent for grant of temporary Injunction. By considered the materials on record this court is of the opinion that the applicant has made out prima facie case and they have entitled for the equitable relief of Temporary Injunction.

17. The power to grant temporary injunction is at the discretion of the court. This discretion, however, should be exercised reasonably, judiciously and on sound legal principles. Injunction should not be lightly granted as it adversely affected the other side. The first rule is that the applicant must make out a prima-facie case in support of the right claimed by him. The court must be satisfied that there is a bonafide dispute raised by the applicant that there is a strong case for trial which need investigation and a decision on merits and on facts before the court there is a probability of the applicant being entitled to the relief claimed by him.

The existence of a prima-facie right and infraction of such right is condition precedent for grant of temporary Injunction. By considered the materials on record this court is of the opinion that the applicant has made out prima facie case and he is entitled for the equitable relief of Temporary Injunction.

18. The suit is filed by the plaintiff against the defendants for seeking relief of specific performance of contract. This court as carefully perused materials on record. RTC and MR the suit schedule properties stands in the name of defendants. Hence, property has to be protected the apprehension of the plaintiff is that the Defendants there is a chance of alienating the suit schedule properties, however the injunction is granted properties has to be kept intact till disposal of the suit. In order to preserve the nature and character of the suit schedule properties till adjudication of the matter, it is just and necessary to allow the application. At this stage court by considering the materials on record is of the opinion that, the plaintiff has made out prima-facie case. With these observations, this court has answered Point No.1 in the Affirmative.

19. POINT No. 2 & 3 : Point No.2 & 3 are interconnected. Hence, in order to avoid the repetition of facts, the above said points are taken up for common discussion. The second condition for granting interim injunction is that, the balance of convenience must be in favour of the

applicant. In other words, the 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. The existence of the prima-facie case alone does not entitle the applicant for a Temporary Injunction. The applicant must further satisfied the Court about the third condition by showing that they will suffer irreparable injury, if the injunction has prayed is not granted and there is no other remedy open to them by which they can protect themselves from the consequences of apprehended injury.

20. The plaintiffs have sought for specific performance of contract and defendants are temporarily restraining from alienating the suit schedule properties during pending disposal of the suit. The important aspect to be noted is that, if the defendants are alienating the suit schedule properties to anybody the plaintiffs will be put to hardship. Hence, this court is of the opinion that, the balance of convenience lies infavour of the plaintiffs and if the Temporary Injunction is not granted in favour of the plaintiffs, then the plaintiffs will be put to irreparable loss and hardship. With these observations, this Court has answered ***Point No.2 and Point No.3 in the Affirmative.***

21. POINT No.4: For the aforesaid discussion on Point No.1 to 3, this court proceeds to pass the following;

ORDER

I.A. No. I filed by the plaintiff No.3 under Order 39 Rule 1 and 2 R/w. Sec.151 of CPC is hereby allowed.

By way of granting temporary injunction, the defendants are hereby restrain from not to alienate the suit schedule properties, till disposal of the suit.

No order as to costs.

(Dictated to the stenographer directly on computer, typed by her, revised, corrected, signed and then pronounced by me in the open court on this the **24th day of September 2025**)

(LAKSHMI M.V)

III Addl. Senior Civil Judge & JMFC.,
Kolar.