

KABR600010382023



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

Present : Sri. Kishor Kumar M. B.A. LL.B.,
II Addl. Senior Civil Judge and JMFC,
Nelamangala.

Dated this the 06th day of August, 2026

O.S.671/2023

Plaintiffs :

1. Smt. Mangalamma
W/o Ramaiah,
Aged about 69 years.

2. Sri. Mahesh
S/o Late. Ramaiah,
Aged about 35 years.

Plaintiffs No. 1 and 2 are R/at:-
No.48-C, 7th Cross,
Krishna College Main Raod,
Gutte Basaveshwara Nagara,
Chikkabanavara,
Bengaluru – 560 090.

3. Smt.Shashikala
D/o Late.Ramaiah,
Aged about 41 years.
R/at:- Kempapura Village,
Chikkabanavara Main Raod,
Bengaluru – 560 090.

(By Sri.H.C.R., Advocate)

V/s

Defendants :

- 1. Sri. Garudappa**
S/o Late. Rangaiah,
Aged about 62 years.
- 2. Smt. Jayamma**
W/o Garudappa,
Aged about 50 years,

Defendants No.1 and 2 are R/at:-
No.12, 7th Cross,
J.C.Nagara,
Mahalakshmipuram,
Bengaluru – 560 096.

- 3. Sri. Ramesh**
S/o Garudappa
Aged about 36 years
R/at:- No.651, 11th Cross,
3rd A Main Road,
Near Munibachchamma Ashrama,
Laggarre,
Peenya Small Industries,
Bengaluru – 560 058.
- 4. Sri. Mohan Kumar**
S/o Garudappa,
Aged about 34 years,
R/at:- No.12, 7th Cross,
J.C.Nagar,
Mahalakshmipura,
Bengaluru – 560 096.
- 5. Smt. Mamatha**
D/o Garudappa,
W/o Harish,
Aged about 36 years,
R/at:- No.12, 7th Cross,
J.C.Nagara,
Mahalakshmipuram,
Bengaluru – 560 096.

6. M/S Garudadri Developers

Represented by its partner,

M.G.Rangadhamaiah

S/o Late.C.Gangaiah

Office at:- 'Vynatheyadama'

5th Cross Road,

Bharath Gajariya Layout Road,

Subhash Nagara,

Nelamangala Town,

Nelamangala Taluk,

Bengaluru Rural District.

7. Smt. Saroja .R.K

W/o N.Laksmipathi Babu,

Aged about 68 years,

R/at:- Plot No.242,

1st Cross Road, 2nd Block,

BSK 3rd Stage,

Bengaluru – 560 085.

(Defendant Nos.1 to 5 by Sri.C.K., Advocate)

(Defendant Nos.6 & 7 by Sri.K.S.L., Advocate)

PARTIES TO I.A.NO.II

Between:

Smt.Mangalamma and others

....Applicants/Plaintiffs

And:

M/s Garudadri Developers and another

.....Opponents/Defendant Nos.6 and 7

ORDER ON I.A.NO.II

The plaintiffs have filed I.A.No.II under Order XXXIX Rules 1 and 2 of the C.P.C seeking a temporary injunction restraining de-

fendants No.6 and 7, their agents or any person claiming through them, from interfering with the peaceful possession and enjoyment of the plaintiffs over the suit schedule properties in any manner, pending disposal of the suit.

2. In support of the application, plaintiff No.3 has filed an affidavit stating that she is conversant with the facts of the case and is also representing plaintiffs No.1 and 2. It is stated that the suit schedule properties originally belonged to late Rangaiah, who acquired them in a family partition dated 15.05.1949. After his death, the revenue records were mutated in the names of his wife Channamma and sons Ramaiah and Garudappa. Rangaiah and Channamma had four children, namely Gangamma, Sakamma @ Savithramma, Ramaiah and Garudappa.

3. It is further stated that Gangamma and Sakamma executed a registered release deed dated 11.09.2015 in favour of their brothers Ramaiah and Garudappa. Thereafter, the plaintiffs, deceased Ramaiah and defendants No.1 to 4 executed a registered General Power of Attorney dated 10.09.2015 in favour of defendant No.6 only for looking after the suit schedule properties and without any monetary consideration.

4. The plaintiff contends that Ramaiah died on 30.08.2020 and thereafter the executants revoked the General Power of Attorney by a registered deed of cancellation dated 08.01.2021. Consequently, defendant No.6 ceased to have any authority over the suit schedule properties in view of Ramaiah's death and the subsequent cancellation of the GPA.

5. It is alleged that, despite knowledge of the above facts, defendant No.6 executed a registered sale deed dated 05.07.2023 in favour of defendant No.7 in respect of Item No.1 of the suit schedule property. According to the plaintiff, the sale deed is fraudulent, illegal, void and not binding on the plaintiffs and defendants No.1 to 5.

6. The plaintiff further contends that possession of the suit schedule properties was never delivered to defendant No.6 and that the plaintiffs and defendants No.1 to 5 continue to remain in possession. It is also contended that, after revocation of the GPA and in view of Section 201 of the Indian Contract Act, defendant No.6 had no authority to alienate the properties.

7. It is alleged that on 09.07.2023 defendant No.7 visited the property, claimed to have purchased Item No.1 from defendant No.6, threatened to dispossess the plaintiffs and stated that she would return with men and machinery. Though the plaintiffs approached the police, they were advised to seek relief before the Civil Court.

8. It is further alleged that defendant Nos.6 and 7 making an effort to illegally interfere with the possession and enjoyment of the plaintiffs over the suit schedule properties. It is contended that, unless an injunction is granted, the defendants may interfere or dispossess the plaintiffs from the suit schedule properties, resulting in multiplicity of proceedings and causing irreparable loss to the plaintiffs. Hence, the present application.

9. Upon service of suit summons, the defendants entered appearance through their respective counsel.

10. Defendant No.7 has filed a written statement and sought that the same be treated as objections to I.A. Nos.1 and 2. Defendant No.6 has adopted the said objections.

11. The defendants contend that the suit is not maintainable either in law or on facts. According to them, the plaintiffs, deceased Ramaiah and defendants No.1 to 5 agreed to sell the suit schedule properties along with Sy. No.5/2 measuring 30 guntas to the partner of defendant No.6 under an Agreement of Sale dated 11.09.2015 for a total sale consideration of ₹98,00,000/-. It is contended that an advance of ₹30,00,000/- was paid and that the balance sale consideration, together with an additional amount, was subsequently paid by cheque and cash, aggregating to ₹1,35,00,000/-.

12. It is further contended that the plaintiffs, deceased Ramaiah and defendants No.1 to 5 simultaneously executed a registered irrevocable General Power of Attorney dated 10.09.2015, coupled with interest, in favour of defendant No.6 authorising him to deal with and sell the properties. The defendants assert that possession of the properties was also delivered to defendant No.6 and that the plaintiffs have suppressed the Agreement of Sale, receipt of the sale consideration and delivery of possession.

13. The defendants contend that defendant No.6 validly executed the registered sale deed dated 05.07.2023 in favour of defendant No.7 under the authority of the irrevocable GPA. There-

after, the revenue records were mutated in favour of defendant No.7, the land was converted for residential purposes and layout approval was obtained. It is further contended that the property has been levelled and developmental work has commenced, evidencing defendant No.7's possession.

14. The defendants further contend that the plaintiffs are not in possession of Item No.1 and that the allegations of interference and threats are false.

15. It is specifically contended that the GPA dated 10.09.2015, being irrevocable and coupled with interest, could not have been unilaterally cancelled. According to the defendants, the cancellation deed dated 08.01.2021 is illegal, void and not binding on them, particularly when the entire sale consideration had been received and no amount has been refunded.

16. The defendants further contend that defendant No.6 was unaware of the alleged cancellation deed and that it was fraudulently created without his consent before the Byatarayanapura Sub-Registrar.

17. While admitting the genealogy, Rangaiah's title, the release deed and execution of the GPA, the defendants deny that the GPA was without consideration, that possession remained with the plaintiffs, that defendant No.6 lacked authority to execute the sale deed or that the sale deed is fraudulent. They also deny the allegations of interference and contend that the suit has been filed only to avoid the transaction after receipt of the entire sale consideration.

18. On these grounds, the defendants contend that the plaintiffs have failed to establish a prima facie case or possession over the suit schedule properties, that the balance of convenience lies in favour of the defendants, and therefore seek dismissal of I.A. No.II.

19. I have heard the learned counsel for the plaintiffs and the learned counsel for the defendant Nos.6 and 7. I have carefully perused the pleadings, documents and the entire material available on record.

20. In the facts and circumstances of the case, the following points arise for my consideration:

POINTS

- (1) Whether the plaintiffs have made out a prima facie case for grant of temporary injunction?**
- (2) Whether the balance of convenience lies in favour of the plaintiffs?**
- (3) Whether the plaintiffs will suffer irreparable injury if injunction is refused?**
- (4) What order ?**

21. My answer to the above points is as under:-

- | | | |
|--------------------|----------|---------------------------|
| Point No. 1 | : | In the Affirmative |
| Point No. 2 | : | In the Negative |
| Point No. 3 | : | In the Negative |
| Point No.4 | : | As per final order |

for the following:

REASONS

22. Point No.1:- The plaintiffs have instituted the present suit seeking declaration that they and defendants No.1 to 5 are the joint owners of the suit schedule properties, declaration that the registered sale deed dated 05.07.2023 executed by defendant No.6 in favour of defendant No.7 in respect of Item No.1 of the suit schedule property is void, illegal and not binding on them, and for consequential relief of permanent injunction. Pending disposal of the suit, the plaintiffs have sought temporary injunction restraining defendants No.6 and 7 from alienating, encumbering or creating any third-party interest over the suit schedule properties.

23. It is not in dispute that the plaintiffs, deceased Ramaiah and defendants No.1 to 4 executed a registered General Power of Attorney dated 10.09.2015 in favour of defendant No.6. Thus, the execution of the said General Power of Attorney is an admitted fact. A perusal of the recitals contained in the said document discloses that the attorney holder was authorised not only to look after the schedule properties, but also to develop the properties, put up construction at his own cost, receive sale consideration, execute sale deeds, present the same for registration, enter into agreements of sale, execute mortgage deeds, lease deeds, rectification deeds and other documents in respect of the schedule properties.

24. It is true that the plaintiffs have produced a registered deed of cancellation of the General Power of Attorney dated 08.01.2021. However, prima facie the said cancellation deed appears to be unilateral in nature. The attorney holder is not a party to the said doc-

ument. Further, there is no material placed before the Court to show that any prior notice of cancellation was issued to the attorney holder either personally or by way of public notice before execution of the cancellation deed. The validity and legal effect of the unilateral cancellation are matters which require detailed adjudication during the course of trial.

25. The records further disclose that defendant No.6, acting as the power of attorney holder, executed a registered sale deed dated 05.07.2023 in favour of defendant No.7 in respect of Item No.1 of the suit schedule property. The sale deed contains a recital regarding delivery of possession of the said property to defendant No.7. Thereafter, the revenue records have been mutated in the name of defendant No.7 vide M.R. No.54/2024-25.

26. The documents produced by defendants No.6 and 7 further disclose that Item No.1 of the suit schedule property was converted for residential purpose by the Deputy Commissioner, Bengaluru Rural District, vide Order No.772699 dated 24.06.2025. It is also seen that the Nelamangala Planning Authority approved the temporary housing design plan vide Letter No.NPA:LAO:36:2025-26 dated 24.12.2025. The defendants have further produced the approved layout plan, Joint Development Agreement dated 29.05.2025 executed by defendant No.7 with one Lakshmipathi Babu in respect of Item No.1 and Sy.No.21/13, the registered General Power of Attorney dated 30.05.2025 executed in favour of Naveen Babu and photographs showing that layout formation work is under progress. These documents prima facie indicate that de-

developmental activities have commenced in respect of Item No.1 of the suit schedule property.

27. On the other hand, except making a bald assertion that they continue to be in possession of the suit schedule properties, the plaintiffs have not produced any convincing material to prima facie establish their actual possession over the properties as on the date of filing of the suit. The General Power of Attorney itself authorises the attorney holder to develop the properties and undertake construction at his own cost. Though the plaintiffs contend that possession was never delivered, the materials placed by the defendants create a serious dispute regarding possession, which cannot be conclusively decided at this interlocutory stage.

28. It is also pertinent to note that the General Power of Attorney relates not only to the present suit schedule properties but also to Sy.No.5/2 measuring 30 guntas of Mallarabanavadi Village. However, no relief has been sought by the plaintiffs in respect of the said property, though it also forms part of the General Power of Attorney. This circumstance is also a matter which requires consideration during the trial.

29. Learned counsel for the plaintiffs has placed reliance on the decision of the Hon'ble Apex Court in M. S. Ananthamurthy v. J. Manjula, reported in (2025) 10 SCC 596, wherein it has been held as follows:

33. Section 201 of the Contract Act prescribes various ways of revocation of authority given by the principal to his agent. A principal can terminate the contract of agency unless

such revocation is precluded by Section 202 of the Contract Act. Section 202 of the Contract Act, as an exception to the general rule under Section 201, prescribes that where an agent has himself an interest in the property which forms the subject-matter of the agency, the agency cannot be terminated to the prejudice of such interest unless there is an express stipulation to the contrary. 55. The High Court rightly held that even though the GPA and the agreement to sell were contemporaneous documents executed by the original owner in favour of the holder, this alone cannot be a factor to reach the conclusion that she had an interest in the PoA. Thus, even though the GPA and the agreement to sell were contemporaneous documents executed by the original owner in favour of the same beneficiary, this cannot be the sole factor to conclude that she had an interest in the subject-matter. Even if such an argument were to persuade this Court, the document must have been registered as per Section 17(1)(b) of the Registration Act. In the absence of such registration, it would not be open for the holder of the PoA to contend that she had a valid right, title and interest in the immovable property to execute the registered sale deed in favour of Appellant 2.

30. Learned counsel for defendants No.6 and 7, in support of their contention, has placed reliance on the judgment of the Hon'ble High Court of Karnataka in the case of S. V. Narayana Swamy v. Smt. Savithramma (since deceased, represented by her

legal representatives) and others, reported in ILR 2014 Kar 4185, wherein it has been held as follows:

99. It is clear from the terms of GPA, the appellant has been authorised to put up construction, to obtain license, to pay tax, to apply for necessary permits, to get cement, steel etc., to enter into an agreement or agreements to lease out, to realise rent, to manage, supervise and direct construction, to pay after construction house tax, light and water charges, to attend repairs or alteration, and to defend all actions. Clause No. 15 of the GPA provides that the executant i.e., Venkatanarasimhaiah shall not revoke the GPA until such time that his attorney voluntarily seeks for such revocation. It is clear, the GPA cannot be revoked until such time the appellant seeks for its revocation. Therefore, it cannot be said that the GPA was given only for the purpose of putting up construction. The GPA authorises the appellant to enter into agreement, to lease out the property, to attend to repairs and alteration, to pay tax and other charges after construction. The GPA cannot be revoked until such time the appellant voluntarily seeks for its revocation. Therefore, the contention of the respondents that the GPA was given only for the purpose of construction cannot be accepted and accordingly, it is rejected.

31. Learned counsel for defendants No.6 and 7, in support of their contention, has also placed reliance on the judgment of the Hon'ble High Court of Karnataka in the case of Smt. Subhadra v.

M. Narasimha Murthy, reported in AIR 2012 Karnataka 19, wherein it has been held that;

As per S. 205 of the Contract Act, when a power of attorney, which is in the form of authorisation authorising the 1st defendant as an agent after receiving the amount of Rs. 29,000/- has been executed, necessarily it has to be treated as an agency coupled with interest. In the factual background and circumstances of the case, even to revoke the power of attorney whether it is fraudulent or otherwise, admittedly and consciously the signatures are found on several papers, but it has been cancelled by the plaintiff without discharging the obligation of paying compensation. Though it is orally contended that the amount of Rs. 29,000/- has been returned, no iota of evidence has been produced to that effect. In the circumstances, it has to be held that the trial court has not taken into consideration the factual and legal aspect of the matter that while revoking the power of attorney, plaintiff had not discharged his part of the obligation i.e., to pay compensation. In the context of the cancellation of power of attorney without paying compensation and also the absence of proof as to returning Rs. 29,000/- borrowed by the plaintiff from the 1st defendant the alleged cancellation of power of attorney executed in favour of 1st defendant has to be treated as non-est.

32. Learned counsel for the defendant No.6 and 7 has relied upon the judgment of the Hon'ble High Court of Karnataka in Mo-

ammed v. Assistant Commissioner, reported in ILR 1993 Kar 2306, wherein it has been held that;

4. A power-of-attorney is an authority whereby one is authorised to act for another. Power-of-attorney is ordinarily construed strictly and general powers are interpreted in the light of the special powers, although they may include incidental powers necessary for carrying out the authority granted. Where a general power is given followed by specific powers, the generality of powers will have to be read in the light of the specific powers granted. In the present case, the first four clauses in the power-of-attorney appear to be ordinary clauses of agency. The fifth clause enables the fourth respondent to construct buildings in the property in question and effect other improvements. Clause 8 empowers the fourth respondent to apply for conversion of land for non-agricultural purposes. Clause 10 empowers the fourth respondent to occupy for himself or let on lease any building in existence or thereafter to come into existence in the said property. Clause 11 empowers the fourth respondent to mortgage the said property and clause 12 permits the fourth respondent to sell the property for a price not less than of Rs. 75,000 mentioned in the certificate issued under Section 55 of the Act. The fourth respondent paid a sum of Rs. 65,000 as deposit and on sale of the property in question he would be entitled to deduct the said sum of Rs. 65,000 already paid towards the sale price and the balance thereof shall be paid. This power-of-attorney is an irrevocable one and

also contains a provision or clause that petitioner would not demand for any accounts. Thus, the fourth respondent has not only been empowered to do certain acts as an agent, he has also been conferred with power to occupy the lands himself or lease any building already existing in the lands or thereafter come into existence and to construct buildings on the property and make other improvements with the power of sale subject to certain conditions. All said and done this power-of-attorney can by no stretch of imagination be stated to be a simple case of creating agency.

33. Learned counsel for the Defendant No. 6 and 7 has relied upon the judgment of the Hon'ble Supreme Court in *Ambalal Sarabhai Enterprise Ltd. v. KS Infraspace LLP Ltd.*, reported in (2020) 5 SCC 410, wherein it has been held that;

15. Chapter VII, Section 36 of the Specific Relief Act, 1963 (hereinafter referred to as "the Act") provides for grant of preventive relief. Section 37 provides that temporary injunction in a suit shall be regulated by the Code of Civil Procedure. The grant of relief in a suit for specific performance is itself a discretionary remedy. A plaintiff seeking temporary injunction in a suit for specific performance will therefore have to establish a strong prima facie case on basis of undisputed facts. The conduct of the plaintiff will also be a very relevant consideration for purposes of injunction. The discretion at this stage has to be exercised judiciously and not arbitrarily.

34. There is no dispute with regard to the principles laid down in the said decisions. However, whether the General Power of Attorney is coupled with interest, whether it was validly revoked, whether the sale deed executed by defendant No.6 is valid, whether possession was delivered and whether the plaintiffs continue to remain in possession are all disputed questions of fact which can be decided only after recording evidence during trial.

35. It is well settled that while deciding an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, the Court is only required to examine whether the plaintiff has made out a prima facie case, whether the balance of convenience is in his favour and whether refusal of injunction would result in irreparable injury. At this stage, the Court is not expected to record final findings on the disputed questions involved in the suit. It is no part of the court's function at that stage to try to resolve a conflict of evidence nor to decide complicated questions of fact and of law which call for detailed arguments and mature considerations. The merits of the rival claims are required to be examined only after full-fledged trial.

36. In the present case, the pleadings and documents disclose that substantial and triable issues arise regarding the validity of the General Power of Attorney, the deed of cancellation and the subsequent sale deed. Therefore, the plaintiffs have succeeded in making out a prima facie case for trial. Accordingly, Point No.1 is answered in the '**Affirmative**'.

37. Point No.2:- The plaintiffs have sought a temporary injunction on the ground that they are in peaceful possession and enjoyment of the suit schedule properties and that defendants No.6 and 7 are trying to interfere with their possession. Therefore, it is the duty of the plaintiffs to place prima facie material before the Court to show that they were in possession of the suit schedule properties on the date of filing of the suit.

38. In the present case, the documents produced by defendants No.6 and 7 prima facie show that Item No.1 of the suit schedule property was sold in favour of defendant No.7 under a registered sale deed dated 05.07.2023. Thereafter, the revenue records have been mutated in the name of defendant No.7. The records further show that the property has been converted for residential purpose by the competent authority, the Nelamangala Planning Authority has approved the temporary housing design plan, a Joint Development Agreement has been executed for development of the property and a registered General Power of Attorney has also been executed in favour of the developer. The photographs produced by the defendants also show that layout formation and developmental works are in progress in Item No.1 of the suit schedule property.

39. On the other hand, except making a statement that they are in possession of the suit schedule properties, the plaintiffs have not produced any convincing document to prima facie show that they are in actual possession of the properties. Whether the plaintiffs or the defendants are in lawful possession is a disputed question of fact, which can be decided only after recording evi-

dence during the trial. At this stage, the material placed before the Court does not show that the plaintiffs are in settled possession of the suit schedule properties.

40. When the defendants have produced registered documents, mutation records, conversion order, planning authority approval and other documents showing that developmental activities are in progress, granting an order of temporary injunction would cause greater hardship to the defendants than its refusal would cause to the plaintiffs. Therefore, the balance of convenience does not lie in favour of the plaintiffs, but in favour of the defendants. Accordingly, Point No.2 is answered in the '**Negative**'.

41. Point No.3:- For the same reasons, the plaintiffs have also failed to establish that they would suffer irreparable injury if temporary injunction is refused. The main relief sought in the suit is for declaration that the sale deed dated 05.07.2023 is not binding on them. If the plaintiffs succeed in the suit after full-fledged trial, they can always obtain appropriate reliefs in accordance with law. Therefore, it cannot be said that refusal of temporary injunction at this stage would cause such irreparable loss or injury as cannot be compensated by law. Accordingly, Point No.3 is answered in the '**Negative**'.

42. Point No.4:- In view of my findings on Point Nos.1 to 3, though the plaintiffs have made out a prima facie case for trial, they have failed to establish that the balance of convenience lies in their favour or that they would suffer irreparable injury if the relief of temporary injunction is refused. Since all the three ingredients

required for grant of temporary injunction under Order XXXIX Rules 1 and 2 of the C.P.C must coexist, the plaintiffs are not entitled to the discretionary relief sought in I.A. No.II. Accordingly, I proceed to pass the following:

ORDER

I.A. No.II filed by the plaintiffs under Order XXXIX Rules 1 and 2 CPC is hereby dismissed.

It is made clear that the observations made in this order are only for the purpose of deciding I.A.No.II and shall not influence the final adjudication of the suit on merits.

No order as to costs.

(Partly dictated to *Adalat AI* on my laptop and partly dictated to the stenographer directly on the computer, typed by her, corrected by me, and then pronounced in open Court on this the **06th day of August, 2026**)

(Sri. Kishor Kumar M.,)
II Addl. Senior Civil Judge
Nelamangala.