



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF APRIL, 2026

BEFORE

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

MISCELLANEOUS FIRST APPEAL NO.385 OF 2026 (CPC)

BETWEEN:

1. SMT. B.T. KAMALA
D/O LATE SRI THIMMAPPA
AGED ABOUT 56 YEARS,
R/AT NO.2, KAVI KESHIRAJ ROAD
SRINGAR, BASAVANAGUDI,
BENGALURU-560 019.
2. SMT. B.T. VIMALA
D/O LATE SRI THIMMAPPA,
W/O SRI MURALI
AGED ABOUT 52 YEARS,
R/AT NO.199 MURALI SLUM,
JAYANAGAR III BLOCK,
BENGALURU-560 011.

...APPELLANTS

(BY SRI PRATHAPA R., ADVOCATE)

AND:

1. SMT. VARALAKSHMAMMA.S @ VARAMMA
D/O LATE SAMPANGAPPA,
AGED ABOUT 74 YEARS
R/AT HOUSE NO.10, 20TH WARD,
PUTTAPANA GUDI BEEDI
DEVANAHALLI
BENGALURU RURAL DISTRICT-563 110.
2. SMT. REKHA
D/O KRISHNAPPA @ KRISHNA MURTHY
W/O SRI M. PRABHAKAR
AGED ABOUT 32 YEARS
R/AT NO.7/5, 1ST MAIN ROAD,





7TH CROSS, GOVINDARAJANAGAR,
BENGALURU-560 040.

3. SRI RAGHAVENDRA
S/O KRISHNAPPA @ KRISHNA MURTHY
AGED ABOUT 30 YEARS,
R/AT NO.146/49, RESERVOIR STREET,
BASAVANAGUDI, BENGALURU-560 004.
4. SRI RAVINDRA K.,
S/O KRISHNAPPA @ KRISHNA MURTHY
AGED ABOUT 28 YEARS,
R/AT NO.146/49, RESERVOIR STREET,
BASAVANAGUDI, BENGALURU-560 004.
5. SMT. C. ANJALI DEVI
W/O LATE V. PRASANNA KUMAR,
AGED ABOUT 49 YEARS,
R/AT NO.133/57, 25TH CROSS,
6TH BLOCK, JAYANAGAR,
BENGALURU-560082.
6. KUM. DHANASHRI
W/O LATE NANDA KUMAR,
AGED ABOUT 20 YEARS,
7. SRI DRUVA
S/O LATE NANDA KUMAR,
AGED ABOUT 18 YEARS,

RESPONDENT NOS.6 & 7 ARE
R/AT NO.133/57, 25TH CROSS,
6TH BLOCK, JAYANAGAR,
BENGALURU-560082.

8. SRI V. HARINATH
S/O VENKATARAMANAPPA,
AGED ABOUT 49 YEARS,
R/AT NO.133/57, 25TH CROSS,
6TH BLOCK JAYANAGAR
BENGALURU-560082.
9. SRI R. RAJANNA
S/O RAMAIAH,
AGED ABOUT 66 YEARS,



R/AT NO.30, 11TH MAIN,
VASANTH NAGAR,
BENGALURU-560 052.

10. SMT. MALLIGA A.,
W/O C. KRISHNA MURTHY,
AGED ABOUT 62 YEARS,
R/AT NO.25 PAPAMMA CHINNAIAH NILAYA,
2ND MAIN, 1ST CROSS,
S.P. NAIDU LAYOUT,
VIJINAPURA,
BENGALURU-560 016.

...RESPONDENTS

(BY SRI K. SHRIHARI, ADVOCATE FOR C/R-9)

THIS MFA IS FILED UNDER ORDER 43 RULE 1(R) OF THE CPC.,
AGAINST THE ORDER DATED 18.12.2025 PASSED ON I.A.NOS.1 AND
2 IN O.S.NO.524/2025 ON THE FILE OF THE XLIV ADDITIONAL CITY
CIVIL AND SESSIONS JUDGE, BENGALURU CCH-45, DISMISSING
THE I.A.NO.1 FILED UNDER ORDER 39 RULE 1 AND 2 R/W SECTION
151 OF CPC, ALLOWING THE I.A.NO.2 FILED UNDER ORDER 39 RULE
4 OF CPC., 1908.

THIS APPEAL COMING ON FOR ORDERS, THIS DAY, JUDGMENT
WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE K.S. HEMALEKHA

ORAL JUDGMENT

This miscellaneous first appeal is filed by the
plaintiffs calling in question the order dated 18.12.2025
passed on I.A.Nos.1 and 2 in O.S. No.524/2025 by the
XLIV Additional City Civil and Sessions Judge, Bengaluru
(CCH-45) ('Trial Court' for short), whereby I.A. No.1 filed
under Order XXXIX Rules 1 and 2 CPC seeking temporary



injunction came to be dismissed and I.A. No.2 filed by defendant Nos.9 and 10 under Order XXXIX Rule 4 CPC was allowed, resulting in vacating the interim order of non-alienation.

Brief facts:

2. The plaintiffs instituted suit seeking declaration that the plaintiffs along with defendant Nos.1 to 8 are joint owners of the suit schedule properties, cancellation of the General Power of Attorney dated 22.10.2021 and a declaration that the sale deed dated 21.09.2024 executed in favour of defendant Nos.9 and 10 is null and void. It is the case of the plaintiffs that the properties were originally acquired by their grandfather under a registered sale deed dated 14.10.1959 and their title stood affirmed in earlier proceedings culminating in RFA No.1844/2018. It is stated that defendant Nos.9 and 10, under the guise of facilitating katha transfer, obtained a GPA and misused the same to execute a sale deed in their favour without payment of consideration. The Trial Court, upon



considering I.A. Nos.1 and 2, declined to grant an injunction and vacated the earlier interim order.

3. Learned counsel for the appellants contends that the Trial Court failed to appreciate that the GPA was obtained fraudulently and was misused to execute a self-serving sale deed. It is contended that the recital in the GPA itself discloses that possession was not delivered, thereby disproving the case of the defendants. It is further contended that a sale deed executed by a GPA holder in his own favour is a case of self-dealing and is void in law. It is further contended that the plaintiffs have continued to be in possession of the suit property and are entitled for protection of such possession. That the Trial Court erred in holding the absence of a *prima facie* case merely on the ground of the existence of alleged documents, which is denied by the plaintiffs. It is contended that irreparable injury would be caused, if alienation is permitted, leading to multiplicity of proceedings.



4. *Per contra*, learned counsel for caveator-respondent No.9 submits that the plaintiffs had executed a registered agreement of sale and a registered GPA coupled with interest, after receiving consideration. The sale deed dated 21.09.2024 is a registered document and title has already been passed in favour of defendant Nos.9 and 10. The allegations of fraud are matters for trial and cannot be adjudicated at the interim stage. No interim relief can be granted on such disputed questions of fact. Non-payment of consideration, even if assumed, does not invalidate the sale and the remedy, if any, lies in recovery of money. It is submitted that in view of Section 52 of the Transfer of Property Act, 1882 ('TP Act' for short) any alienation would be subject to the result of the suit. Hence, grant of injunction is unnecessary.

5. This Court has carefully considered the rival contentions urged and perused the material on record. The point that arises for consideration is:



"Whether the appellants have made out a case for interference with the discretionary order of the Trial Court refusing to grant of temporary injunction?"

6. At the outset, it is to be noted that the relief sought is discretionary in nature. The scope of interference by the Appellate Court against an order passed under Order XXXIX Rules 1 and 2 CPC is limited, unless the discretion exercised by the Trial Court is shown to be arbitrary, perverse or contrary to the settled principles. In the present case, it is not in dispute that:

- i. There exists a registered agreement of sale dated 02.11.2018.
- ii. A registered General Power of Attorney dated 22.10.2021,
- iii. A registered sale deed dated 21.09.2024 stands in the name of defendant Nos.9 and 10.

7. The principal contention of the plaintiffs is that plaintiffs along with defendant Nos.1 to 8 were declared as absolute owners of the suit 'A' schedule property in RFA



No.1844/2018 and continued in joint possession. Defendant Nos.9 and 10, under the guise of facilitating revenue entries, obtained a General Power of Attorney dated 22.10.2021 and misused the same to execute a sale deed dated 21.09.2024 in their favour, without payment of consideration. It is further contended that under the earlier agreement of sale dated 02.11.2018, only a sum of ₹3,00,000/- was paid as advance and no further consideration was made and therefore, subsequent sale deed is vitiated by fraud and is not binding. The plaintiffs *prima facie* does not dispute the execution of the agreement of sale dated 02.11.2018 and the General Power of Attorney dated 22.10.2021, both of which are registered documents nor do they dispute the execution of the registered sale deed dated 21.09.2024 in favour of defendant Nos.9 and 10 or their signatures thereon. Their challenge is primarily on the ground of non-payment of consideration and alleged misuse of GPA.



8. In this context, it is relevant to extract Section 54 of the TP Act, which reads as under:

"54. "Sale" defined.—*"Sale" is a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised.*

Sale how made.—*Such transfer, in the case of tangible immoveable property of the value of one hundred rupees and upwards, or in the case of a reversion or other intangible thing, can be made only by a registered instrument.*

In the case of tangible immoveable property of a value less than one hundred rupees, such transfer may be made either by a registered instrument or by delivery of the property.

Delivery of tangible immoveable property takes place when the seller places the buyer, or such person as he directs, in possession of the property.

Contract for sale.—*A contract for the sale of immoveable property is a contract that a sale of such property shall take place on terms settled between the parties.*



It does not, of itself, create any interest in or charge on such property."

9. It is well settled that in terms of Section 54 of the TP Act, a sale is a transfer of ownership in exchange for a price paid or promised or part paid and part promised. Therefore, non-payment of full consideration does not by itself render a registered sale deed void. The remedy, if any, lies in seeking recovery of the balance consideration or appropriate relief in the properly constituted proceedings. The allegations that the GPA was obtained under the false pretext and the sale deed was executed fraudulently are serious disputed questions of fact, which required evidence and cannot be conclusively adjudicated at the interlocutory stage. Mere assertion that no consideration was paid, contrary to the recitals in the registered sale deed detailing the mode and manner of payment, cannot be accepted at this stage without trial.

10. The Trial Court has placed reliance on the well settled principles laid down by the Apex Court, governing



the effect of the registered sale deed and grant of injunction. Firstly, reliance is placed on ***Kaliaperumal Vs. Rajagopal and another***¹ (*Kaliaperumal*), wherein it has held that payment of entire sale consideration is not a condition precedent for transfer of title, and even in cases of non-payment, the remedy lies in recovery of consideration and not in avoidance of the sale. The principle squarely applies to the present case where the appellants primarily contend non-payment of consideration.

11. Secondly, the Trial Court has relied upon ***Mandali Ranganna and others Vs. T. Ramachandra and others***² (*Mandali Ranganna*), particularly paragraph 18, wherein it has been held that the grant of injunction is an equitable relief and the Court must consider not only a *prima facie* case, balance of convenience and irreparable injury, but also the conduct of the parties and the overall circumstances.

¹ (2009) 4 SCC 193

² AIR 2008 SC 2291



12. Thirdly, reliance is also placed on ***Dalpat Kumar Vs. Prahlad Singh and others***³ (*Dalpat Kumar*), which reiterates that the existence of a *prima facie* case is a *sine qua non* for grant of an injunction and that in its absence, other considerations do not arise.

13. The Trial Court, applying the above principles, held that the appellants have failed to establish a *prima facie* case and in view of the existence of the registered documents and the nature of allegations, consequently, declined to grant injunction. The Trial Court, on appreciation of the material, has held that the plaintiffs have not made out a *prima facie* case. This Court does not find any perversity, illegality or material irregularity in the exercise of such discretion so as to warrant interference in this appeal and the point framed for consideration is accordingly answered and this Court pass the following:

³ (1992) 1 SCC 719



ORDER

- i. The miscellaneous first appeal is hereby ***dismissed***.
- ii. The impugned order dated 18.12.2025 passed on I.A.Nos.1 and 2 in O.S. No.524/2025 by the XLIV Additional City Civil and Sessions Judge, Bengaluru (CCH-45) stands ***confirmed***.
- iii. It is made clear that the observation made herein is a *prima facie* in nature and shall not influence the Trial Court while deciding the suit on merits.

Sd/-

JUSTICE K.S. HEMALEKHA