



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF APRIL, 2026

BEFORE

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

MISCELLANEOUS FIRST APPEAL NO.1820 OF 2026 (CPC)

BETWEEN:

SMT. USHA MANOJ KUMAR @ USHA K.G.
W/O MANOJ KUMAR,
AGED ABOUT 58 YEARS,
RESIDING AT NO.109, DEEKSHA,
5TH CROSS, BEHIND GKW LAYOUT
BUS STAND, HBCS LAYOUT,
VYALIKAVALL, BENGALURU-560 040.

...APPELLANT

(BY SRI MURALIDHAR H.M., ADVOCATE)

AND:

1. MOHAMMED KHADIR UR RAHMAN,
S/O MOHAMMED ZABI UR RAHMAN,
AGED ABOUT 34 YEARS,
PRESENTLY RESIDING AT FLAT NO.408,
CORNER RIDGE GKS, 6TH MAIN ROAD,
HBR LAYOUT, BENGALURU-560 043.
PERMANENTLY RESIDING AT NO.946,
AMMAVARAPETE, KALAYIPETE,
KOLAR-563 101.
2. MANOJ KUMAR G.S,
S/O LATE SHIVAJI RAO G.H.
AGED ABOUT 58 YEARS,
RESIDING AT NO.109, DEEKSHA,
5TH CROSS, BEHIND GKW LAYOUT,
BUS STAND, HBCS LAYOUT,
VYALIKAVALL, BENGALURU-560 040.





3. SMT. NALINI SUSHMA M.S.,
W/O SENDIL KUMAR .A
AGED ABOUT 42 YEARS,
4. SENDIL KUMAR .A
S/O LATE ANANTHAPADMANABHA RAO,
AGED ABOUT 51 YEARS,

RESPONDENT NOS.3 & 4 ARE
RESIDING AT NO.209, 'B' BLOCK,
ELEGANT PRIDE APARTMENT,
4TH CROSS, TELECOM LAYOUT,
NEXT TO GOVERNMENT SCHOOL,
SRIRAMPUR, JAKKUR PO,
BENGALURU-560 064.

...RESPONDENTS

(BY SRI NAGARAJ R., ADVOCATE FOR C/R-1)

THIS MFA IS FILED UNDER ORDER 43 RULE 1(r) OF CPC AGAINST THE ORDER DATED 13.02.2026 PASSED ON I.A.NO.1 IN O.S.NO.25106/2026 ON THE FILE OF THE XIII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU CITY (CCH-22), ALLOWING THE I.A.NO.1 FILED UNDER ORDER 39 RULE 1 AND 2 READ WITH SECTION 151 OF CPC.

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

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

ORAL JUDGMENT

The appellant who is arrayed as defendant No. 1 in OS No. 25106/2026 has called in question the order dated 13.02.2026 passed on I.A.No. 1 on the file of the XIII Additional City Civil and Sessions Judge, Bengaluru, whereby, the application filed by the plaintiff under Order



XXXIX Rule 1 and 2 CPC came to be allowed restraining the defendants from alienating or creating any third party rights in respect of the suit schedule property.

BRIEF FACTS

2. The suit is one for specific performance based on an oral agreement of sale dated 18.12.2025 for a total consideration of ₹.3,65,00,000/-. It is the case of the plaintiff that part consideration was paid and that he has been ready and willing to perform his part of contract. It is further contended that defendant Nos. 1 and 2 instead of completing the transaction, has entered into a subsequent registered agreement of sale dated 09.01.2026 in favour of defendant Nos. 3 and 4 thereby attempting to defeat his right. Apprehending alienation the plaintiff filed I.A No. 1 seeking temporary injunction.

3. Learned counsel appearing for the appellant contends that there is no concluded contract between the parties, that the alleged oral agreement is not supported



by acceptable material, and that the Trial Court has erred in granting injunction without a *prima facie* case. It is further contended that defendant Nos. 3 and 4 are *bona fide* purchasers under registered agreement and the balance of convenience is not in favour of the plaintiff.

4. Per contra, learned counsel for the respondent No.1-plaintiff supports the impugned order and submits that the plaintiff has made out a *prima facie* case. That the conduct of defendants 1 and 2 in entering into a subsequent agreement indicates an attempt to defeat the prior arrangement and that unless the property is protected, irreparable injury would be caused. It is also submitted that defendants No. 3 and 4 had earlier challenged the very same order dated 13.02.2026 in MFA No. 1904/2026 and this Court by order dated 17.03.2026 has dismissed the appeal, confirming the order of the Trial Court.

5. This Court has carefully considered the submission and perused the material on record. The Trial



Court on appreciation of the pleadings and documents has recorded a finding that the plaintiff has established a *prima facie* case and that balance of convenience lies in his favour. The Trial Court has also taken note of the possibility of creation of third party rights which would complicate the proceeding and cause irreparable injury to the plaintiff.

6. It is well settled that while dealing with an appeal against an order passed under Order XXXIX Rule 1 and 2, the Appellate Court would not interfere with the exercise of discretion by the Trial Court unless such discretion is shown to be arbitrary, perverse or contrary to the settled principles of law. In the present case, no such ground is made out. Further, it is not in dispute that defendant Nos. 3 and 4 had already challenged the very same order in MFA No. 1904/2026 and this Court by order dated 17.03.2026 has dismissed the said appeal thereby confirming the order of the Trial Court. In such circumstances no different view can be taken in the



present appeal. The contention urged by the appellant pertain to disputed questions of fact which are required to be adjudicated at the stage of trial and cannot be conclusively determined at interlocutory stage. Accordingly, this Court is of the opinion that the appellant has failed to make out any ground to interfere and this Court pass the following :

ORDER

- (i) The appeal is ***dismissed.***
- (ii) The order dated 13.02.2026 passed on I.A.No. 1 in OS No. 25106/2026 on the file of the XIII Additional City Civil and Sessions Judge, Bengaluru, is hereby ***confirmed.***

Sd/-

JUSTICE K.S. HEMALEKHA