



**IN THE COURT OF THE III ADDL.SENIOR CIVIL JUDGE AND JMFC.,  
TUMAKURU.**

Before: **Sri. Irfan, B.A., L.L.B.,**  
III Addl. Senior Civil Judge & JMFC., Tumakuru.

**Dated this 20<sup>th</sup> day of December 2023**

**O.S.347/2023**

**Plaintiff** : Ranjithkumar L.

V/s

**Defendant** : Manjula.T

**PARTIES TO I.A.I**

**APPLICANT:** Ranjithkumar.L, S/o Lakshmikantha,  
Aged about 27 years,  
R/o Yallapura, Arakere post,  
Kasaba Hobli, Tumakuru Taluk. ....Plaintiff

(By Sri.RN, Advocate)

V/s

**OPPONENT:** Manjula.T ....Defendant

(By Sri.RP, Advocate)

Provision under which the application is filed	U/O 39 Rule 1 and 2 of CPC
Relief Sought for	Temporary injunction
The date on which the application is filed	20.04.2023
Number of the	I.A.No.I



application	
The date on which the objections are filed by the different opponents	28.08.2023
The date on which the orders were passed on the said application	20.12.2023

Sd/-  
**(IRFAN)**  
III Addl. Senior Civil Judge  
& JMFC., Tumakuru.

**ORDERS ON IA.I**

This I.A. has been filed by the plaintiff under Order 39 Rule 1 and 2 of CPC seeking to restrain the defendant, his agents, servants from alienating or creating any third party rights over the suit schedule property till the final adjudication.

2. This application is accompanied by an affidavit filed by the plaintiff. The gist of the application averment is that the plaintiff and defendant have entered into an Agreement of Sale on 08.08.2022 wherein, the defendant has agreed to sell the suit schedule property for a total sale consideration of a sum of Rs.30,09,600/- whereupon, an advance amount of a sum of Rs.5.00 lakhs was received by the defendant and it has been agreed that the



sale deed shall be executed within a period of six months after mutating the municipal entries in the name of defendant from her husband's name. It is specifically contended that despite of lapse of time, the defendant has not performed her part of obligation under the contract and despite of notice, she has not come forward to execute the sale deed as agreed which has derived the plaintiff to institute this suit seeking for the relief of specific performance of contract. Accordingly, sought to allow the application.

3. Defendant has filed her written statement and adopted the same as objections to this I.A. She has denied entire case of the plaintiff as false and frivolous. It is contended that the suit schedule property is the ancestral property of the defendant, but it is specifically asserted that the defendant alone is not having any exclusive right over the same. The suit schedule property values more than Rs.50.00 lakhs and it is a commercial property. In order to grab the same, the plaintiff has created the alleged sale agreement for a meager consideration amount. Defendant never received any advance from the plaintiff. Accordingly, sought to dismiss the I.A.
4. Heard both side. Perused the case records.
5. The points that arise for consideration are as follows:
  1. Whether the plaintiff has made out prima-facie case



in his favour ?

2. Whether the plaintiff has made out balance of convenience in his favour?
  3. Whether the plaintiff would suffer irreparable loss and injuries, if the injunction is not granted?
  4. What order?
6. With reference to the material made available on record the above points answered as follows:

Point No.1 - In the Affirmative

Point No.2 - In the Affirmative

Point No.3 - In the Affirmative

Point No.4 - As per the final order, for the following;

### R E A S O N S

7. **Point No.1 to 3:-** These points are discussed together to avoid repetition of narration of facts.

This suit is for the relief of specific performance of contract. As per the plaint averments, the defendant has executed the alleged sale agreement dated 08.08.2022 agreeing to sell the suit schedule property for a total consideration of a sum of Rs.30,09,600/- and a sum of Rs.5.00 lakhs was received towards advance sale consideration by agreeing to execute the sale deed after changing the municipal entries in the name of defendant on inheritance



within a period of six months. On the other hand, the defendant has specifically denied the execution of alleged sale agreement and it is her specific defence that the aforesaid document in question is a fabricated, created and concocted document. The plaintiff in order to support his contentions, has produced the original sale agreement dated 08.08.2022, copy of legal notice dated 24.02.2023, postal receipt, postal settlement report, photostat copy of partition deed dated 24.10.2019, Land Conversion Order, proposed Layout Plan, Demand Register Extract, E-Khatha pertaining to the disputed property. On perusal of the partition deed dated 24.10.2019, it is prima-facie found that the suit schedule property in question was fallen to the share of R.Suryanarayanawamy, the husband of the defendant and the present E-Khatha would go to show that the suit schedule property is presently existing in the name of said R.Surayanarayanswam. It is not in dispute that the said R.Suryanarayanawamy is no more and the defendant is wife of said R.Suryanarayanawamy.

8. The execution of alleged sale agreement is in dispute. The legality of the said sale agreement needs to be adjudicated upon a full fledged trial. Having considering the fact that the suit schedule property is existing in the name of R.Suryanarayanawamy, there is every possibility that the defendant would change the municipal entry into her name. It is apprehended by the plaintiff that the



defendant in order to deprive the legitimate right of the plaintiff over the suit schedule property based on the sale agreement 08.08.2022 is trying to alienate the suit schedule property to the 3<sup>rd</sup> parties. In order to safeguard the interest of both side parties and to keep the suit schedule property intact till the final adjudication, the grant of temporary injunction is found to be necessary. On going through all the facts and circumstances of the case on hand, the plaintiff has made out a prima-facie case for grant of temporary injunction as sought. No harm or prejudice would be caused to the defendant, if an order of temporary injunction is granted. If defendant proceeds to dispose of the suit schedule property, same leads to multiplicity of proceedings and therefore, the balance of convenience liens in favour of plaintiff rather than the defendant. Accordingly, **the points under consideration are answered in the Affirmative**

9. **Point No. 4 :-** In view of the findings on the foregoing points the following;

**ORDER**

I.A.I filed by the plaintiff under order XXXIX  
Rule 1 and 2 of CPC is allowed.

The defendant or anybody else acting on her  
behalf is temporarily restrained from alienating or



creating any third party rights over the suit schedule  
property till the final adjudication.

No order as to costs.

(Dictated to the Stenographer directly on computer, corrected by me and then pronounced in open court  
on this 20<sup>th</sup> day of December 2023.)

Sd/-

**(IRFAN)**

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