

IN THE COURT OF THE SENIOR CIVIL JUDGE AND
J.M.F.C., TARIKERE

PRESENT : SRI VAIDYA SHREEKANT, *B.Sc, LL.B.*
Senior Civil Judge & J.M.F.C.,
Tarikere. .

(Name of the Presiding Judge)

DATED : THE 03rd DAY OF DECEMBER 2025

OS No.150/2022

ORDER ON IA-VIII FILED UNDER ORDER XL

RULE-1 R/W SEC.151 OF CPC

The plaintiff filed the instant application under Order XL Rule 1 of CPC praying this court to appoint one of the parties as receiver to harvest the standing Areca crop and to remit the income to this court with proper accounts.

2. In the affidavit annexed to the application, the plaintiff deposed that she filed this suit for partition. The 1st defendant is her mother and defendant No.5 is her brother's wife and 7th defendant is her brother's son. The 6th defendant is purchaser of suit item No.2 property. The suit item No.1 to 3 properties are fertile lands having Areca garden and standing crop. The estimation of the crop is not less than is 420 quintals

of raw Arecanuts. The present market value of the raw Arecanut per quintal is about Rs.7,000/-.

3. It is further deposed that The defendant No.1, 5, 6 and 7 have already harvested unripe Arecanuts hurriedly to deprive and defraud the interest of the plaintiff without accounting her. After filing of the suit, the above defendants harvested the crop on two occasions without maintaining any account. After commencement of the evidence of the plaintiff, the defendants again are making preparations for harvest of the crops. If the defendants are allowed to harvest the crop without maintaining proper account, they would mis-utilize income and may give false account. Hence, it is just and necessary to appoint the court receiver.

4. The application came to be objected by the defendants No.7. The defendant No.7 contended that the application in the present form is not maintainable. The brother of the plaintiff namely Devaraj failed to maintain his children and without notice of 1st wife, the defendant No.5 herein, contracted 2nd marriage with defendant No.6 illegally. He addicted to bad habits and raised hand-loans to meet his bad habits.

5. When the joint family decided to sell the suit item No.1 property, the 5th defendant by sensing hardship that would be caused if the properties are alienated to the third persons requested her father to purchase the property. At that time, the 7th defendant on behalf of his minor grandson purchased the suit item No.1 property for valuable consideration of Rs.7,45,000/- from Devaraj and Tanuja to protect the interest of his grandson.

6. It is contended that prior to purchase of the said land, the defendant No.7 repaid the hand-loan amount of Rs.2,60,000/- which was borrowed from B.S. Rudramurthy. He has also repaid crop loan of Rs1,06,000/- to the PACS Bank Bukkumbudi. He also repaid loan of Rs.1,07,750/- to Corporation Bank and got redeem the mortgage. He also paid Rs.50,000/- to one Shanmukhappa which was borrowed by Devaraj, the defendant No.4 herein.

7. Thereafter, the defendant No.7 developed the property so purchased by spending huge amount and converted the land into Areca garden. After Development of the land, the defendant No.4 started to interfere without any cause. Therefore, he instituted a suit for permanent injunction against the defendant No.4 herein and also filed application seeking

temporary injunction order against him. The interim application filed by him has been allowed on 29.09.2022 and the defendant No.4 restrained from interfering into the property till disposal of the suit. The appeal filed against the said order is pending consideration in MA No.6/2022.

8. After filing of the suit by the defendant No.7, the 4th defendant along with the plaintiff got instituted this suit. Hence, the plaintiff is entitled to claim relief except suit item No.1 property which was purchased by the defendant No.7. The suit itself is time barred and hence the plaintiff is not entitled to claim any relief. If the application is allowed, the defendant No.7 would put to great hard-ship etc.

9. Heard on application.

10. The following points arise for consideration of this Court:

1. Whether the plaintiff has made out reasonable grounds to appoint the court commissioner?
2. What order?

11. After hearing both sides, I answer the above points as under;

Point No.1: In the Negative

Point No.2 : As per final order
for the following:

R E A S O N S

12. **POINT No.1:** As discussed above, the instant application has been filed by plaintiff praying to appoint receiver to harvest the crop of Arecanut plants situated at suit item No.1 to 3 properties. The grievance of the plaintiff is that the defendant No.1, 5 , 6 and 7 harvested Arecanut crop on number of occasions after institution of this suit and they have not maintained proper account. Hence, it is just and necessary to appoint the court receiver.

13. Per contra, the contentions of the defendant No.7 is that the defendant No.4 addicted to bad habits and raised hand-loans from different persons and also from financial institutions. To repay the said loan, the joint family intended to sell the suit item No.1 property and as per request of his daughter, the defendant No.5 herein and to protect the interest his minor grandson, M.N. Kumar Murthy purchased the property for value and also repaid the loan borrowed by the 4th defendant who is none other than his son-in-law.

14. The plaintiff herein seeking appointment of the receiver for harvest of the crops and to maintain

the account in respect of suit item No.1 to 3 properties. In para No.7 of the plaint, it has been pleaded that the 4th and 5th defendant have created registered sale deeds in respect of suit item No.1 and 2 properties. The plaintiff sought the relief of declaration that the sale deed dated 22.04.2015 and 23.04.2015 do not bind her share. It means, sale of the properties in favour of the defendant No.6 and 7 is well within the knowledge of the plaintiff. Under such circumstances, the inference would be that the defendant No.6 and 7 are in possession of the properties being purchased by them. The court has to determine as to whether or not the sale of the property is for the benefit of joint family or for the development of estate. Without there being the proper trial of the suit, the said aspect cannot be ascertained.

15. Furthermore, the defendant No.6 and 7 purchased the properties through registered instruments and as per the material available on record, the mutation is also certified by the revenue authority based on the sale deeds. That apart, the defendant No.7 purchased the suit item No.1 property during his minority through his guardian.

16. Another important aspect to be considered here is that in the suit filed by the defendant No.7 in OS No.360/2022 learned Addl. Civil Judge and JMFC , Tarikere after hearing both sides passed orders on IA No.I restraining the defendant No.4 herein from interfering into the suit item No.1 property. It prima - facie establish that the defendant No.7 herein is in possession of the property being purchased by him. Under such circumstances, the receiver cannot be appointed merely because some suit is filed. Hence, I am of the opinion that there are no reasonable grounds which necessitates appointment of the receiver. Accordingly, I answer point No.1 in Negative.

17. **POINT NO.2:** For the reasons and above discussion, I proceed to pass the following:

O R D E R

The application filed at IA No.VIII
by the plaintiff under order XL Rule 1
R/w Sec.151 of CPC is hereby rejected.

Sd/-
SENIOR CIVIL JUDGE & JMFC.,
TARIKERE.

