

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

Present : Shri Vinayak Mayannavar,
B.A.,LL.B
Senior Civil Judge & JMFC, Afzalpur.

Dated: This, the 17th Day of November - 2025

O.S No-29/2025.

Plaintiff: Satalingappa S/o Late Sidramappa Sagar.

[By Shri C.S.H Advocate]

-V/s -

Defendants : Sharadabai W/o Vithal Sagar,
and 6 others.

[D-1 to 5 By Shri. R.H.B Advocate]

[D-6 and 7 By Shri. S.N.P Advocate]

ORDER ON IA NO-1 FILED UNDER ORDER XXXIX

RULE 1 AND 2 OF CPC.

The plaintiff has filed the present application praying for a temporary injunction order restraining the defendants from alienating the suit properties pending disposal of the suit.

2. The plaintiff has contended that, the defendant No-5, 6, and deceased Vithal and deceased Kadappa are the brothers and sister of the plaintiff. The defendant No-1 to 4 are the legal representatives of the deceased Vithal. The defendant No-7 is the wife of the plaintiff. The Kadappa has died leaving behind Balabheem. The The Balabheem has also died. The plaintiff and the defendants are the legal heirs of the deceased Sidramappa Sagar and deceased Gujjabai. The plaintiff and the defendants are the Hindu joint family members. The suit properties are the ancestral and joint family properties of the plaintiff and the defendants. The plaintiff has got share in the suit properties. The defendants are now trying to alienate the suit properties by denying the rights of the plaintiff in the suit

properties. On the said material grounds the plaintiff has prayed for allowing the present application.

3. The defendant No-1 to 3 have filed their written statement by denying the case of the plaintiff. The defendant No-1 to 3 have contended that, oral partition has already taken place between the plaintiff and the defendants long back. The suit item No-1 property bearing survey number 55/2 measuring 4 acre of land is standing in the name of the wife of the plaintiff i.e., the defendant No-7 as per the partition. The suit item No-2 property bearing survey number 55/4 measuring 4 acre 20 gunta of land is purchased by the husband of the defendant No-1. The suit item No-3 property bearing survey number 109/1/1A measuring 3 acre 21 gunta of land was fallen to the share of the defendant No-5. The suit item No-5 property bearing plot No-39 and 40 in survey survey number 12/2A are the self acquired properties of the defendant No-3. The said properties are purchased by the defendant No-3 from his own earnings. The suit item No-6 property bearing panchayat No-32 is allotted to the defendant

No-5 in the earlier partition. The suit of the plaintiff is barred by law of limitation. On the said material grounds the defendant No-1 to 5 have prayed for rejection of the present application.

4. The defendant No-6 has filed her written statement by admitting the case of the plaintiff. The defendant No-6 by way of counter claim has claimed her share in the suit properties.

5. On considering the case of both the side and on perusal of the records, the following points arise for my consideration for proper adjudication of the present application:

POINTS

- 1] Whether the applicant/plaintiff has made out a prima-facie case in his favour ?
- 2] Whether the balance of convenience leans in favour of the applicant/plaintiff ?

3] Whether the applicant/plaintiff suffer irreparable loss and damage, if the temporary injunction as sought for is not granted ?

4] What order ?

6. Having heard the arguments on the above application and also after considering the pleadings and materials available on record, my answer to the above points are as below:

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

REASONS

7. Point No-1 to 3 : Since these points are interlinked together, I take up these points for consideration together to avoid repetition.

8. On perusal of the materials on record it appears that, the defendant No-1 to 5 have not denied the relationship of the plaintiff. The defendant No-6 has admitted the case of the plaintiff. The defendant No-1 to 5 have come up with a case of oral partition earlier between the parties and self acquisition of the suit item No-5 property by the defendant No-3. The plaintiff has produced the revenue records standing in the name of his wife i.e., the defendant No-7 with respect to suit item No-1 property. The suit item No-2 property is standing in the name of the defendant No-1. The suit item No-3 property is standing in the name of the defendant No-4. The suit item No-4 property is standing in the name of the defendant No-5. The plaintiff has produced the records standing in the name of the father of the plaintiff with respect to suit item No-1 and 2 properties. The plaintiff has produced the copy of sale deed. From the said document it appears that, the 8 acre of

land in survey number 55 is purchased by the defendant No-3 at the age of 19 years in the year 2006. The plaintiff has produced the property extract of suit item No-6 property standing in the name of his brother Vithal.

9. The defendants have come up with a case oral partition between the parties and self acquisition of property. The defendants at this stage have not produced any materials in support of their case. The plaintiff has produced some materials in support of his case.

10. On perusal of the materials on record and considering the case of the parties it appears that, at this stage the plaintiff has produced the materials in support of his case. The defendants at this stage have not produced any materials in support of their case. The defence of the defendant No-1 to 5 about prior partition and self acquisition can be considered only in the trial. Considering the case of both the side it appears that, both the parties are required to be given an opportunity to put forth their case on merits. Hence, on

considering the materials on record I am of the opinion that, the plaintiff has made out a case for trial. Hence, I am of the opinion that, the plaintiff has made out a prima-facie case in his favour. Hence, I answered point No-1 in the affirmative.

11. The plaintiff is claiming his rights over the suit properties. The plaintiff has produced the records in support of his case. The defendants at this stage have not produced any materials in support of their case. Hence, considering the case of the parties and materials on record if an injunction as prayed by the plaintiff is granted then no any harm will be going to cause to the defendants.

12. From the available materials if an injunction is granted as claimed by the plaintiff it may not affect the rights of the defendants and it will avoid multiplicity of proceedings. If an injunction is refused to the plaintiff it will lead to multiplicity of proceedings and may affect the rights of the plaintiff in the suit properties. The alienation of the suit properties by the defendants will affect the rights of the plaintiff. Hence I am of

the opinion that the plaintiff has made out a case in his favour with regard to point of balance of convenience and irreparable loss. Hence I answered point No-2 and 3 in the affirmative.

13. Point No- 4: In view of my findings on the above point No-1 to 3 and also considering the materials on record at this stage, I proceed to pass the following:

ORDER

I.A. No-1 filed by the plaintiff under order 39 Rule 1 and 2 of CPC is hereby allowed.

The defendants are hereby restrained by way of temporary injunction from alienating the suit properties till further orders or till disposal of the present suit whichever is earlier.

The plaintiff is hereby directed to co-operate for the early disposal of the present

case, failing which the injunction order granted in favour of the plaintiff will be vacated automatically.

Senior Civil Judge & JMFC.,
Afzalpur.

[Order pronounced in the open court vide separate sheets]

ORDER

I.A. No-1 filed by the plaintiff under order 39 Rule 1 and 2 of CPC is hereby allowed.

The defendants are hereby restrained by way of temporary injunction from alienating the suit properties till further orders or till disposal of the present suit whichever is earlier.

The plaintiff is hereby directed to co-operate for the early disposal of the present case, failing which the injunction order granted in favour of the plaintiff will be vacated automatically.

Senior Civil Judge & JMFC.,
Afzalpur.