

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 21st Day of July - 2025

O.S No-31/2025.

Plaintiffs : Jakkamma W/o Ravindra Kannur,
and 3 others.

[By Shri R.J.P. Advocate]

-V/s -

Defendants : Annarao S/o Chandappa Anjutagi,
and 4 others.

[D-1 to 3 By Sri S.R.C. Advocate]

[D-4 By Sri S.S.P. Advocate]

[D-5 By Sri S.K.P. Advocate]

ORDER ON IA NO-1 FILED UNDER ORDER XXXIX

RULE 1 AND 2 OF CPC.

The plaintiffs have filed the present application praying for a temporary injunction order restraining the defendant No-4 and 5 from alienating the suit properties pending disposal of the suit.

2. The applicants/plaintiffs have contended that, the plaintiffs are the daughters of the defendant No-1 and 2. The defendant No-3 is the brother of the plaintiffs. The defendant No-4 and 5 are the purchasers of the suit properties. The suit properties are the ancestral and joint family properties of the plaintiffs and defendant No-1 to 3. No any partition has taken place between the plaintiffs and the defendant No-1 to 3. The plaintiffs in the month of February 2025 have come to know that, the defendant No-4 and 5 have illegally mutated their names to the suit properties. The defendant No-2 on 19-07-2012 has sold the suit property to the defendant No-5. The defendant No-1 on 03-10-2012 has sold the suit property

in favour of the defendant No-4. The defendant No-4 and 5 are now trying to alienate the suit properties. On the said material grounds the plaintiffs have prayed for allowing the present application.

3. The defendant No-5 has filed the written statement by denying the case of the plaintiffs. The defendant No-5 has contended that, the plaintiffs and the defendant no-1 to 3 by colluding each other have filed the present suit in order to get illegal benefit from the defendant No-5. The defendant No-5 has purchased the suit item No-1 property bearing survey number 110/4 measuring 3 acre 27 gunta of land. The defendant No-1 and 2 have sold the suit item No-1 property to the defendant No-5 in order to meet their family necessities and to meet the expenses of marriage of the plaintiff No-1 and expenses of education of plaintiff No-2 to 4. The defendant No-2 is in possession of the suit item No-1 property from the date of registered sale deed dated 19-07-2012. The defendant No-5 is a bonafide purchaser of the suit item No-1 property. The suit of the plaintiffs is barred by law of limitation. On the

said material grounds the defendant No-5 has prayed for rejection of the present application.

4. The defendant no-3 i.e. brother of the plaintiffs has filed his written statement by admitting the case of the plaintiffs. He has prayed for allotting his share by way of counter claim.

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 applicants/plaintiffs have made out a prima-facie case in their favour?
- 2] Whether the balance of convenience leans in favour of the applicants/plaintiffs ?
- 3] Whether the applicants/plaintiffs 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 negative.

Point No-2: In the negative.

Point No-3: In the negative.

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 plaintiffs are the daughter of the defendant No-1 and 2 and filed the present suit in the year 2025. On perusal of the materials on record it appears that, the mother of the plaintiffs i.e., the defendant No-2 has sold the suit item No-1 property to the defendant No-5 on 17-07-2012 through a registered sale deed. It further appears that, the defendant No-1 i.e., father of the plaintiffs has sold the suit item No-2 property in favour of the defendant No-4 on 03-10-2012. The defendant No-1 and 2 have reported that in order to meet their family necessities they have sold the suit properties. The plaintiffs have come up with a case that, the suit properties are the ancestral and joint family properties of the plaintiffs and defendant No-1 to 3.

9. The learned advocate for the plaintiffs has argued that if the property is sold by the purchasers then it will create more complication in the matter. He has relied upon the decision of Andhra Pradesh High court in the case of Cherukuvada Laxmi

Kanthamma V/s Penmetsa Sarada reported in AIR 2023 AP-158.

10. Considering the material on record it appears that, the plaintiffs at this stage have not produced any materials to show the nature of the suit properties. The plaintiffs being the daughters of the defendant No-1 and 2 have filed the present suit in the year 2025 challenging the registered sale deeds of the year 2012. Hence, the decision relied upon by the advocate for the plaintiffs is not helpful for the plaintiffs in the present case. The plaintiffs at this stage have not produced any documents in support their case showing the nature of the suit properties. The plaintiffs have only produced the copies of sale deeds of the defendant No-4 and 5 and RTC standing in the name of the defendant No-4 and 5. Hence, on considering the materials on record at this stage I am of the opinion that, the plaintiffs have not produced any materials in support of their case. Hence, I am of the opinion that, the plaintiffs have not made out a prima-facie case in their favour. Hence, I answered point No-1 in the negative.

11. The plaintiffs are claiming their rights over the suit properties. The plaintiffs have not produced any materials in support of their case. The defendant No-4 and 5 are the purchaser of the suit properties under a registered sale deeds of the year 2012. Hence, considering the case of the parties and materials on record if an injunction as prayed by the plaintiffs is granted then harm will be going to cause to the defendant No-4 and 6.

12. From the available materials if an injunction is granted as claimed by the plaintiffs it may affect the rights of the defendant No-4 and 6 and it will lead to multiplicity of proceedings. If an injunction is refused to the plaintiffs it will not lead to multiplicity of proceedings and may not affect the rights of the plaintiffs in the suit properties. The plaintiffs on establishing their rights in the suit properties are entitled for the reliefs with respect to the suit properties. Hence I am of the opinion that the plaintiffs have not made out a case in their favour with regard to point of balance of convenience

and irreparable loss. Hence I answered point No-2 and 3 in the negative.

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 plaintiffs under order 39 Rule 1 and 2 of CPC is hereby rejected.

Senior Civil Judge & JMFC.,
Afzalpur.

[Order pronounced in the open court vide separate sheets]

ORDER

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

Senior Civil Judge & JMFC.,
Afzalpur.

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Defendants : Annarao S/o Chandappa Anjutagi,
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ISSUES

- 1] Whether the plaintiffs prove that, the plaintiffs and the defendant No-1 to 3 are the Hindu joint family members ?
- 2] Whether the plaintiffs prove that, the suit properties are the ancestral and joint family properties of the plaintiffs and defendant No-1 to 3?

- 3] Whether the plaintiffs prove that, the sale deed executed by the defendant No-1 in favour of the defendant No-4 on 03-10-2012 with respect to suit item No-2 property is not binding on the plaintiffs ?
- 4] Whether the plaintiffs prove that, the sale deed executed by the defendant No-2 in favour of the defendant No-5 on 17-07-2012 with respect to suit item No-1 property is not binding on the plaintiffs ?
- 5] Whether the defendant No-5 proves that, the defendant No-2 has sold the suit item No-1 property to the defendant No-5 to meet the family necessities and to meet expenses of marriage of the plaintiff No-1 and education expenses of plaintiff No-2 to 4 and the defendant No-5 is a bonafide purchaser ?

- 6] Whether the defendant No-5 proves that, the suit of the plaintiffs is barred by law of limitation?
- 7] Whether the plaintiffs are entitled for the share in the suit properties? If so to what extent?
- 8] Whether the plaintiffs are entitled for the reliefs as claimed by them ?
- 9] What order or decree?

Date: 21-07-2025

Senior Civil Judge & JMFC,
Afzalpur.