

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 10th Day of February - 2026

O.S No-44/2025.

Plaintiffs : Ratnabai @ Ratnamma
W/o Shivanand Hanchinal.
D/o Chandappa Kada
and another.

[By Shri S.K.P. Advocate]

-V/s -

Defendants : Kamalabai W/o Chandappa Kada
and 2 others.

[D-1 to 3 by Shri P.R.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 defendants from alienating the suit properties pending disposal of the suit.

2. The plaintiffs have contended that, the defendant No-1 is the step mother of the plaintiffs. The defendant No-2 and 3 are the step brothers of the plaintiffs. The father of the plaintiffs i.e., deceased Chandappa Kada married with the mother of the plaintiffs by name Kamalabai. The mother of the plaintiffs i.e., Kamalabai is no more. The father of the plaintiffs after death of the mother of the plaintiffs has married with the defendant No-1 i.e., Kamalabai. The defendant No-2 and 3 are the children of the defendant No-1. The name of the first wife of the Chandappa is Kamalabai. The name of the second wife of the Chandappa is also Kamalabai.

3. It is further case of the plaintiffs that, the suit properties are the ancestral and joint family properties of the plaintiffs and the defendants. The suit property bearing survey No-298/5 measuring 4 acre of land is purchased by the father of the plaintiffs in the name of the defendant No-1. The plaintiffs have got share in the suit properties. The defendants are now trying to alienate the suit properties. On the said material grounds the plaintiffs have prayed for allowing the present application.

4. The defendants have filed their written statement by denying the case of the plaintiffs. The defendants have contended that, the suit item No-4 property bearing survey No-298/5 measuring 4 acre of land is purchased by the defendant No-1. The said property is the self acquired property of the defendant No-1. The suit item No-5 property bearing house No-15/2025 is also purchased by the defendant No-1. The said property is also the self acquired property of the defendant No-1. The defendant No-1 has performed the marriage of the plaintiffs. Hence the plaintiffs

are not entitled for any share in the suit item No-1 to 3 properties. The plaintiffs have received household articles, Gold, Silver and utensils at the time of their marriage. Hence the plaintiffs are not entitled for any share in the suit properties. The father of the plaintiffs was raised loan from the villagers. The defendant No-1 by selling her parents properties has cleared the loan of the father of the plaintiffs. Hence the defendant No-1 is the exclusive owner of the suit properties. The defendant No-1 has incurred Rs.10,00,000/- for the medical expanses of the father of the plaintiffs. On the said material grounds the defendants have prayed for rejection of the present application.

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 plaintiffs have made out a prima-facie case in their favour?

- 2] Whether the balance of convenience leans in favour of the plaintiffs ?
- 3] Whether the 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 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, there is no any dispute between the parties about the relationship of the plaintiffs with the defendants. The defendants have come up with a case of clearing of loan with respect to suit item No-1 to 3 properties and giving up Gold and other articles to the plaintiffs at the time of their marriage. The plaintiffs at this stage have produced the records with respect to the suit properties standing in the name of father of the plaintiffs and the defendant No-1. The case of the defendants as to absolute ownership of the defendant No-1 to the suit properties can be considered only in the trial. The defendants at this stage have not produced any materials against the case of the plaintiffs. The plaintiffs

at this stage have produced the materials in support of their case.

9. On considering the case of the parties and relationship of the parties and materials on record it appears that, the plaintiffs have made out a case for trial. The case of the defendants can be considered only in the trial. Hence, I am of the opinion that, the plaintiffs have made out a prima-facie case in their favour. Hence, I answered point No-1 in the affirmative.

10. The plaintiffs are claiming their rights over the suit properties. 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 plaintiffs is granted then no any harm will be going to cause to the defendants.

11. From the available materials if an injunction is granted as claimed by the plaintiffs it may not affect the rights of the

defendants and it will avoid multiplicity of proceedings. If an injunction is refused to the plaintiffs it will lead to multiplicity of proceedings and may affect the rights of the plaintiffs in the suit properties. The alienation of the suit properties by the defendants will affect the rights of the plaintiffs. Hence I am of the opinion that the plaintiffs have 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 affirmative.

12. 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 allowed.

The defendant No-1 to 3 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 plaintiffs are hereby directed to co-operate for the early disposal of the present case, failing which the injunction order granted in favour of the plaintiffs will be vacated automatically.

Senior Civil Judge & JMFC.,
Afzalpur.

[Order pronounced in the open court vide separate sheets]

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