

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 02nd Day of September - 2025

O.S No-45/2025.

Plaintiff : Akshata @ Mallamma
W/o Shivaputra Havalagi.

[By Shri S.S.P. Advocate]

-V/s -

Defendants : Subhash S/o Siddappa Havalagi,
& 6 others.

[D-1 to 4 By Sri K.G.P Advocate]

[D-5 & 7 ADGP]

[D-6 Ex-parte]

ORDER ON IA NO-2 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 defendant No-5 to 7 from disbursing the death benefits of the deceased Shivaputra in favour of the defendant No-1 to 4 pending disposal of the suit.

2. The plaintiff has contended that, she is the wife of the deceased Shivaputra. The defendant No-1 and 2 are the parents of the deceased Shivaputra. The defendant No-3 and 4 are the sister and brother of the deceased Shivaputra. The marriage of the plaintiff with the Shivaputra was performed in the year 2021. The deceased Shivaputra was working in the health department as group-D employee. The husband of the plaintiff was died on 10-10-2024 due to electric shock on 10-10-2024 when he was on duty. The defendant No-1 to 4 are trying to receive the death benefits of the deceased Shivaputra. The defendant No-5 has demanded the order of

the court in favour of the plaintiff. On the said material grounds the plaintiff has prayed for allowing the present application.

3. The defendant No-1 to 4 have filed their written statement by denying the case of the plaintiff. They have contended that, the plaintiff is not related to the deceased Shivaputra. The date of birth of the plaintiff is 03-12-2007. The plaintiff has not attained the majority till date. In the year 2021 the plaintiff was aged about 14 years. The defendant No-1 to 4 are only entitled to the death benefits of deceased Shivaputra. The plaintiff in order of give trouble to the defendant No-1 to 4 has filed the present suit falsely claiming that, she is the wife of the deceased Shivaputra. On the said material grounds the defendant No-1 to 4 have prayed for rejection of the present application.

4. The defendant No-5 to 7 have not filed their objection or written statement in the present case.

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 her 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 plaintiff is claiming that she is the wife of Shivaputra. The defendant No-1 to 4 have contended that the plaintiff is not related to the deceased Shivaputra. The plaintiff in support of her case has produced the copy of application filed by her before the defendant No-7 praying to allot the death benefits of Shivaputra to her. The plaintiff has also produced the copy

of complaint given to the police on 10-10-2024 reporting death of her husband Shivaputra on 10-10-2024. The plaintiff has produced the marriage invitation card and the photos. Considering the case of both the parties it appears that there is a need of enquiry regarding the status of the plaintiff in the present suit. The plaintiff at the stage has produced some materials in the form of complaint, applications and photos and marriage invitation card in support of her case. The defendants have not produced any materials in support of their case at the stage Hence, considering the materials on record I am of the opinion that, the plaintiff has made out a case for trial and a prima-facie case in her favour. Hence, I answered point No-1 in the affirmative.

9. The plaintiff is claiming her rights over the death benefits of the deceased Shivaputra. The plaintiff has claimed that she is the wife of the deceased Shivaputra. The defendant No-1 to 4 are denying case of the plaintiff. 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.

10. 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 death benefits. The disbursement of the death benefits by the defendant No-5 to 7 in favour of the defendant No-1 to 4 will affect the rights of the plaintiff. Hence I am of the opinion that the plaintiff has made out a case in her favour with regard to point of balance of convenience and irreparable loss. Hence I answered point No-2 and 3 in the affirmative.

11. 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 defendant No-5 to 7 are hereby restrained by way of temporary injunction order from disbursing the death benefits of deceased Shivaputra in favour of the defendant No-1 to 4 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 defendant No-5 to 7 are hereby restrained by way of temporary injunction order from disbursing the death benefits of deceased Shivaputra in favour of the defendant No-1 to 4 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.