

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 8th Day of October - 2025

O.S No-48/2025.

Plaintiff: Jagadevi W/o Sharanappa Navalekar
Since dead by her Lr.

[By Shri S.S.P Advocate]

-V/s -

Defendants : Suvarna W/o Somaraya Kutnoor
and another.

[D-1 & 2 By Shri.S.G.H 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 defendant No-1 and 2 from alienating the suit properties pending disposal of the suit.

2. The plaintiff has contended that, the plaintiff is the sister of the defendant No-1 and 2. The father and mother of the plaintiff are no more. The suit properties are the joint family properties of the plaintiff and the defendants. The suit properties were standing in the name of the father of the plaintiff by name Hanamant. The mother of the plaintiff by name Mahadevi was died on 03-07-2024. The father of the plaintiff by name Hanamant was died on 05-01-2025. The plaintiff has got $1/3^{\text{rd}}$ share in the suit properties. The defendants are now trying to alienate the suit properties. On the said material grounds the plaintiff has prayed for allowing the present application.

3. The defendant No-1 and 2 have filed their written statement by denying the case of the plaintiff. The defendants

have contended that, the partition has already taken place as per the will deed executed by the father of the plaintiff i.e., Hanamant on 09-12-2024. The plaintiff was allotted survey No-109/1 measuring 4 acre of land. The defendant No-1 was allotted survey No-37/5 measuring 3 acre 25 gunta of land and survey No-57/4 measuring 35 gunta of land and survey No-31/5 measuring 3 acre 12 gunta of land. The defendant No-2 was allotted survey No-109/2 measuring 5 acre 18 gunta of land and survey No-109/3 measuring 1 acre 31 gunta of land. On the said material grounds the defendants have prayed for rejection of the present application.

4. 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 ?

5. 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

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

7. On perusal of the materials on record it appears that, the defendants and the plaintiff are the sisters. The father of the plaintiff was died on 05-01-2025. The plaintiff has filed the present suit for the relief of partition. The defendants have come up with a case of prior partition as per the will deed executed by the father of the plaintiff. The plaintiff has produced the documents in support of her case. The plaintiff has produced the documents of suit properties showing that the suit properties were standing in the name of her father and mother and now in the name of the plaintiff and defendants.

8. 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 her case. The defendants at this stage have not produced any materials

in support of their case. 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, 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 her favour. Hence, I answered point No-1 in the affirmative.

9. The plaintiff is claiming her rights over the suit properties. The plaintiff has produced the records in support of her 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 defendant No-1 and 2.

10. From the available materials if an injunction is granted as claimed by the plaintiff it may not affect the rights of the defendant No-1 and 2 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 defendant No-1 and 2 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-1 and 2 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 defendant No-1 and 2 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.