

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 12th Day of January - 2026

O.S No-59/2025.

Plaintiff : Annapurna W/o Baburao Bandagar

[By Shri.M.A.J Advocate]

-V/s -

Defendants : Annappa @ Anil S/o Baburao Bandagar
and 6 others.

[By Shri S.K.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 defendant No-1 to 7 from alienating the suit properties pending disposal of the suit.

2. The plaintiff has contended that, the plaintiff is the mother of the defendant No-1, 3 and 5. The defendant No-2, 4 and 6 are the daughter in laws of the plaintiff. The defendant No-7 is the grandson of the plaintiff and son of the defendant No-1 and 2. The plaintiff is the legally wedded wife of the deceased Baburao. The marriage of the plaintiff was performed about 42 years back. The plaintiff and deceased Baburao have got 3 children in the form of defendant No-1, 3 and 5. After 4 years of marriage the deceased Baburao suspecting the fidelity of the character with one Suresh Bake has assaulted the plaintiff and thrown out the plaintiff from his house.

3. It is further case of the plaintiff that, the husband of the plaintiff i.e., Baburao has allotted 20 acre of land to one

Saibai with whom he was having illicit relationship. The husband of the plaintiff has allotted 150 acre of land to the defendant No-1, 3 and 5 and retained 60 acre of land. The defendant No-2, 4 and 6 by taking undue advantage of the ill health and unconsciousness condition of the husband of the plaintiff have got registered a partition deed in their favour. The defendants have killed the husband of the plaintiff. The plaintiff has filed a complaint under section 302 of IPC before the Police. The police have not taken any action against the defendants. The plaintiff has filed a private complaint against the defendants. The plaintiff has got 1/4th share in the suit properties. The registered partition deed of the year 2023-2024 is not binding on the plaintiff. The defendants are now trying to alienate the suit properties. On the said material grounds the plaintiff has prayed for allowing the present application.

4. The defendants have filed their written statement by denying the case of the plaintiff.

5. The defendants have contended that, one Janabai is the first wife of the deceased Baburao. The deceased Baburao during the subsistence of his marriage with the Janabai has married with the plaintiff. The plaintiff is not entitled for the relief of partition. The plaintiff herself left the village and went to her brother's house. The deceased Baburao on his own with his will and wish has executed a registered partition deed dated 23-11-2023.

6. The defendants further contended that, the suit survey No-385 i.e., suit item No-I, J, K, L, M and N properties are not related to the deceased Baburao. The said properties are self acquired properties of the defendant No-1, 3 and 5. The said properties are bequeathed to the defendant No-1, 3 and 5 by their grandmother through registered will deed dated 20-05-1998. The suit item No-E, F and G properties are also not belonging to the deceased Baburao. The said properties were belonging to one Vithal S/o Sidramappa and he has transferred the same to the defendant No-1, 3 and 5. On the

said material grounds the defendants have prayed for rejection of the present application.

7. 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 plaintiff has made out a prima-facie case in her favour ?
- 2] Whether the balance of convenience leans in favour of the plaintiff ?
- 3] Whether the plaintiff suffer irreparable loss and damage, if the temporary injunction as sought for is not granted ?
- 4] What order ?

8. 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

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

10. On perusal of the materials on record it appears that, the plaintiff is claiming that, she is the wife of the deceased Baburao and mother of the defendant No-1, 3 and 5. The

defendants have contended that, the plaintiff is the second wife of the deceased Baburao.

11. The defendants at this stage have produced the copy of registered will deed executed by one Bivarabai W/o Annappa Bandagar dated 20-05-1998. From the said document it appears that, said Bivarabai has bequeathed the survey No-385 land measuring 33 acre 5 gunta of land to the defendant No-1, 3 and 5. The defendants have also produced mutation extract with respect to the said will deed.

12. The defendants have also produced the copy of registered partition deed dated 23-11-2023. From the said document it appears that the properties are allotted to the defendants. The deceased Baburao was allotted with Rs.1,50,000/- for his maintenance. The defendants have also produced the copy of order passed in Cri. Misc No-249/2024. From the said document it appears that, the interim maintenance was granted to the plaintiff from the defendant No-1, 3 and 5. The defendants have also produced the

mutation extract showing that, the uncle of the defendant No-1, 3 and 5 gave the survey No-259 land to the defendant No-1, 3 and 5 by way of partition. The plaintiff has produced the revenue records standing in the name of the deceased Baburao and the defendants. The plaintiff has also produced the copy of objections filed by her for mutating the name of the defendants to the suit properties as per the partition deed.

13. On considering the relationship of the plaintiff with the defendants and considering the materials on record it appears that, the plaintiff has made out grounds for making an enquiry in the matter. The case of the defendants as to self acquisition of the suit properties and acquisition of rights under the disputed registered partition deed can be considered only in the trial.

14. 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 clear

materials against the case of the plaintiff. 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.

15. 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 clear materials against the 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.

16. 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 defendant No-1 to 7 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.

17. 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 to 7 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 to 7 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.