

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 06th Day of December - 2025

O.S No-8/2025.

Plaintiff : Anita W/o Babu Hanaji

[By Shri.M.A.J Advocate]

-V/s –

Defendants : Sumitrabai W/o Kalappa Harijan
and 7 others.

[D-1 to 3, 5, 6 & 9 By Shri K.G.P Advocate]

[D-4 Ex-parte]

[D-7 and 8 dismissed]

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-3, 5 and 6 to 9 from alienating the suit properties pending disposal of the suit.

2. The plaintiff has contended that, the defendant No-1 to 6 are the brothers and sisters of the plaintiff. The plaintiff and the defendant No-1 to 6 are the Hindu joint family members. The defendant No-7 to 9 are the purchasers of the properties. The suit properties are the joint family properties of the plaintiff and the defendant No-1 to 6. The plaintiff has got share in the suit properties. The sale deeds executed in favour the defendant No-7 to 9 are not binding on the plaintiff. The defendant No-3, 5 and 6 to 9 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-3 and 5 have filed their written statement by denying the case of the plaintiff. The defendant No-1 and 2 by filing a memo adopted the written statement of the defendant No-3 and 5.

4. The defendant No-1 to 3 and 5 have contended that, the suit item No-1 to 3 properties are the self acquired properties of the defendant No-3. The defendant No-3 has purchased the said properties. The defendant No-3 nominally purchased the 8 acre of land in the name of his father. The plaintiff has no any right in the suit properties. On the said material grounds the defendant No-1 to 3 and 5 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 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 the sister of the defendant No-1 to 6. The plaintiff has produced the revenue records in support of her case. The plaintiff has produced the records standing in the name of her father with respect to the suit properties. The plaintiff has produced the documents showing the purchase of the 8 acre of land by the father of the plaintiff in the year 2003. The plaintiff has also produced the document showing the purchase of 4 acre of land in the name of defendant No-3. The said sale transactions appear to be taken place on 21-10-2003. The case of the defendants can be considered only in the trial.

9. 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.

10. 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-3, 5, 6 and 9.

11. From the available materials if an injunction is granted as claimed by the plaintiff it may not affect the rights of the defendant No-3, 5, 6 and 9 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-3, 5, 6 and 9 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.

12. Point No- 4: The suit against the defendant No-7 and 8 is dismissed for not taking steps. Hence the plaintiff is not entitled for the relief against the said defendant No-7 and 8. 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-3, 5, 6 and 9 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-3, 5, 6 and 9 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.