

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 04th day of September - 2025

O.S No.88/2024.

Plaintiff : Vithal S/o Late Dhondiba Goundi.

[By Shri C.S.H Advocate]

-V/s -

Defendants : Subhash S/o Late Maruti Goundi,
and 4 others.

[By Shri P.B.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 defendants from alienating the suit property pending disposal of the suit.

2. The plaintiff has contended that, the plaintiff is the owner and in possession of the suit property bearing survey number 111/*/* measuring 20 acre 36 gunta of land. Earlier the suit property was standing in the name of the mother of the plaintiff by name Ambawwa. The mother of the plaintiff was died in the year 1990-1991. The Maruti i.e., father of the defendants was cultivating the suit land on crop sharing basis. The defendants and their father deceased Maruti illegally mutated their name to the suit property in the name of the Maruti in the year 1991. The plaintiff recently came to know that, the father of the defendants illegally mutated his name to the suit property in the year 1991. The defendants have no any right in the suit property. The defendants are now trying to alienate the suit property by taking undue advantage of records in their name. On the said material

grounds the plaintiff has prayed for allowing the present application.

3. The defendants have filed their written statement by denying the case of the plaintiff. The defendants have contended that, the suit of the plaintiff that, his not maintainable without the relief of possession. The Maruti was the owner and in possession of the suit property. After death of the Maruti the defendants are in possession and cultivation of the suit property. The suit of the plaintiff is barred by law limitation. 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 his 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 plaintiff is claiming that, the suit property was earlier standing in the name of mother of the plaintiff by name Ambawwa. The father of the defendants by name Maruti illegally mutated his name to the suit property in the year 1991. The mutation extract of the year 1991 shows that, the Ambawwa and her husband have died and they were residing in Maharashtra for their livelihood for 18 to 20 year and their children are absconding. On the said grounds the Maruti has

mutated his name to the suit property claiming to be his the relative of the Ambawwa.

8. On perusal of the materials on record and considering the case of the parties it appears that, the plaintiff has produced the materials in support of his case at this stage. 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 his favour. Hence, I answered point No-1 in the affirmative.

9. The plaintiff is claiming his rights over the suit property. The plaintiff has produced the records in support of his case. The defendants at this stage have not produced any materials of 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 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 suit property. The alienation of the suit property by the defendants will affect the rights of the plaintiff. Hence I am of the opinion that the plaintiff has made out a case in his 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 defendants are hereby restrained by way of temporary injunction from alienating the suit property 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.