

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 05th Day of March - 2026

O.S No-85/2025.

Plaintiff : Hajaratbi W/o Dastagir Shaik.

[By Shri S.J.G. Advocate]

-V/s -

Defendants : Sultan S/o Sondu Naikodi
and 2 others.

[D-1 and 3 By Shri R.A.M. Advocate]

[D-2 By Shri K.D.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 3 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 3. The suit properties were earlier standing in the name of the father of the plaintiff. The name of the defendant No-1 is nominally mutated to the suit properties. The plaintiff and the defendant No-1 and 3 are the tenants in common under the Mohammedan Law. The plaintiff has got share in the suit properties. The defendant No-1 has illegally sold the property to the defendant No-2 on 21-02-2025. The plaintiff has got 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 defendants have not filed any written statement or objections to 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 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 ?

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 have not filed any objections to the present

application. The plaintiff has produced the revenue records. From the said documents it appears that, the suit properties were earlier standing in the name of the father of the plaintiff by name Sondusab. The name of the defendant No-1 was mutated on death of the father of the plaintiff by way of the inheritance. The defendant No-1 also appears to be sold part of the suit property to the defendant No-2 on 20-02-2025. Hence, on considering the case of the plaintiff and on 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.

8. 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 denied the case of the plaintiff and not produced any materials to disbelieve the case of the plaintiff. Hence, on 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 to 3.

9. 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 to 3 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 3 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.

10. 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 3 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 3 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.