

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 06<sup>th</sup> Day of January - 2026

O.S No-93/2025.

Plaintiff: Halappa S/o Peerappa Sappangol.

[By Shri M.A.J Advocate]

-V/s -

Defendants : Peerappa S/o Ambanna Sappangol,  
and 4 others.

[D-1 to 4 & 5 [a] and [c] By Shri.C.S.H. Advocate]

[D-5 [b] & [d] Ex-Parte]

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 4 from alienating the suit properties pending disposal of the suit.

2. The plaintiff has contended that, the defendant No-1 is the father of the plaintiff. The defendant No-2 to 5 are the sisters and brother of the plaintiff. The defendant No-2 to 4 i.e., sisters of the plaintiff are married and residing in their husband house. The suit properties are the ancestral properties of the defendant No-1. The defendant No-1 without any knowledge has executed a gift deeds in favour of the defendant No-2 to 4. The survey number 110/2 measuring 4 acre 38 gunta of land is belonging to the mother of the plaintiff and it is standing in the name of the plaintiff. The said property is the stridhan property of the mother of the plaintiff. The plaintiff has got share in the suit properties. The defendant No-1 to 4 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 to 4 have filed their written statement by denying the case of the plaintiff. They have contended that, the suit item No-2 property bearing survey number 12/1 measuring 1 acre 20 gunta of land was purchased by the defendant No-1 in the name of the his wife Bhagamma on 23-10-1996. The said property is the self acquired property of the defendant No-1. The suit item No-4 property bearing survey number 66/2 measuring 3 acre 38 gunta of land was purchased by the defendant No-1 in the name of his wife Bhagamma on 17-06-1994. The said property is also the self acquired property of the defendant No-1.

4. The defendant No-1 to 4 have further contended that, the suit item No-1 property was bearing survey number 110/A measuring 10 acre 38 gunta of land. The said land was granted to the father of the defendant No-1 by name

Ambanna by the land Tribunal in the year 1977. The said land was transferred in the name of the defendant No-5 and the said land was acquired by the Government. The plaintiff behind the back of the defendants has received the compensation amount. The survey number 110/2 measuring 4 acre 38 gunta of land was gifted by the defendant No-1 to the defendant No-3. The suit item No-4 property bearing survey number 77/4 measuring 1 acre 19 gunta of land is the ancestral property and the same is gifted by the defendant No-1 to the defendant No-4. The survey number 61/5 measuring 1 acre 11 gunta of land is purchased by the defendant No-1 in the name of the plaintiff on 15-11-2016.

5. The defendant No-1 has already effected the oral partition between the parties. The survey number 66/7 measuring 3 acre 38 gunta of land and survey number 61/6 measuring 1 acre 11 gunta of land are fallen to the share of the plaintiff. The plaintiff has not included all the properties in the present suit. On the said material grounds the

defendant No-1 to 4 have prayed for rejection of the present application.

6. 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 his 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 ?

7. 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

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

9. On perusal of the materials on record it appears that, the plaintiff is the son of the defendant No-1 and brother of the

defendant No-2 to 5. The plaintiff has contended that, the suit properties are the ancestral and joint family properties of the plaintiff and the defendants. The defendant No-1 to 4 have come up with a case of oral partition and case of self acquisition of the properties. The plaintiff has produced the copies of gift deeds executed by the defendant No-1 in favour of the defendant No-2, 3 and 4 with respect to suit properties. The plaintiff has produced the revenue records standing in the name of the defendant No-1 and father of the defendant No-1 with respect to suit item No-1 and 4 properties.

10. The defendant No-1 to 4 have produced the sale deeds of suit item No-2 and 4 properties standing in the name of the mother of the plaintiff of the year 1994 and 1996. The defendants have also produced the sale deed of the defendant No-1 with respect to 3 acre 38 gunta of land dated 18-03-2002. The defendants have also produced the registered gift deeds executed by the defendant No-1 in favour of the defendant No-2 to 4 in the year 2025 and revenue records.

11. On perusal of the materials on record and considering the case of the parties and relationship of the parties at this stage it appears that, the plaintiff has produced the materials in support of his case. The case of the defendants can be considered only in the trial. 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.

12. The plaintiff is claiming his rights over the suit properties. The plaintiff has produced the records in support of his case. The defendants at this stage have not produced any materials to disbelieve 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 defendant No-1 to 4.

13. 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 4 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 4 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.

14. 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 4 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.

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