

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 7<sup>th</sup> Day of April - 2026

O.S No-93/2025.

Plaintiff : Halappa S/o Peerappa Sappanagol.

[By Shri .M.A.J. Advocate]

-V/s -

Defendants : Peerappa S/o Ambanna Sappanagol  
and 4 others.

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

[D-5 (b) and (d) Ex-Parte]

ORDER ON IA NO-3 FILED UNDER ORDER XXXIX

RULE 1 AND 2 OF CPC.

The defendant No-2 has filed the present application praying for a temporary injunction order restraining the plaintiff from interfering in the cultivation of the suit item no-2 to 4 properties and survey number 110/2 measuring 4 acre 38 gunta of land by the defendant No-2 to 5 pending disposal of the suit.

2. The defendant No-2 has contended that, the defendant No-2 to 5 are the owners in possession of the suit properties. The defendant No-2 to 5 are cultivating the suit properties and the plaintiff is interfering for the cultivation of the suit properties. On the said material grounds the defendant No-2 has prayed for allowing the present application.

3. The advocate for the plaintiff has orally objected for the present application.

4. On considering the case of the defendant No-2 and on perusal of the records, the following points arise for my

consideration for proper adjudication of the present application:

POINTS

- 1] Whether the defendant No-2 has made out a prima-facie case in her favour?
- 2] Whether the balance of convenience leans in favour of the defendant No-2 ?
- 3] Whether the defendant No-2 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 negative.

Point No-2 : In the negative.

Point No-3 : In the negative.

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 has filed the present suit for the relief of partition and separate possession against the defendants. The plaintiff has contended that, the defendant No-1 is the father of the

plaintiff. The defendant No-2 to 5 are sisters and brother of the plaintiff. The defendant No-5 has died and the defendant No-5(a) to (d) are the legal heirs of the defendant No-5. The plaintiff and the defendant No-1 to 5 are the Hind joint family members. The defendant No-2 to 4 have taken their share by way of money. The defendant No-1 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 the same is standing in the name of the plaintiff.

8. The defendant No-1 to 4 have contended that, the suit item No-2 property is the self acquired property of the defendant No-1. The suit item No-4 property is also the self acquired property of the defendant No-1. The suit item no-1 property was granted to the father of the defendant No-1 by the land tribunal. The said land was transferred in name of the defendant No-5. The defendant No-1 has gifted survey number 110/2 measuring 4 acre 38 gunta of land to the defendant No-2. The suit item No-4 property is the ancestral

property and the same is gifted by 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. The defendant No-1 has already made an 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.

9. On considering the material on record it appears that, the defendant No-2 is claiming an injunction against her brother. The plaintiff has filed the present suit for the relief of partition. The revenue records produced by the party shows that, the survey number 77 and 110 lands were standing in the name of grandfather of the plaintiff. The survey number 12/1 and survey number 66 were standing in the name of the father of the plaintiff. The sale deeds produced by the parties shows that, the survey number 66/2 land was purchased by the mother of the plaintiff. The survey number 12/1 land was

purchased by the mother of the plaintiff. The defendant No-1 appears to be gifted survey number 66/2 land to the defendant No-2 and the defendant No-1 appears to be gifted survey number 12/1 measuring 1 acre 20 gunta of land to the defendant No-4. The defendant No-1 appears to be gifted survey number 77/4 measuring 1 acre 19 gunta of land to the defendant No-4. The defendant No-1 appears to be gifted the survey number 110/2 measuring 4 acre 38 gunta of land to the defendant No-3. Hence, on considering the materials on records and relationship of the parties at this stage it is difficult to believe the case of the defendant No-2. The plaintiff has denied the exclusive rights of the defendant no-1 and claimed his share in the suit properties. Hence, on considering the material on record I am of the opinion that, the defendant No-2 has not made out prima-facie case in her favour. Hence, I answered point No-1 in the negative.

10. The defendant No-2 is claiming her rights over the suit properties exclusively. The defendant No-2 at this stage has not produced any acceptable materials in support of her case.

The documents of the defendant No-2 are under challenge by her brother. Hence, on considering the case of the defendant No-2 and on considering the materials on record it appears that if an injunction as prayed by the defendant No-2 is granted then harm will be going to cause to the plaintiff.

11. From the available materials if an injunction is granted as claimed by the defendant No-2 it may affect the rights of the plaintiff and it will lead to multiplicity of proceedings. If an injunction is refused to the defendant No-2 it will not affect the rights of the defendant No-2 in the suit properties. The defendant no-2 is finally entitled for the reliefs as per her rights. Hence I am of the opinion that the defendant No-2 has not 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 negative.

12. 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-3 filed by the defendant No-2 under order 39 Rule 1 and 2 of CPC is hereby rejected.

Senior Civil Judge & JMFC.,  
Afzalpur.