

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 18<sup>th</sup> Day of March - 2026

O.S No-103/2024.

Plaintiffs : Bhimashankar S/o Eranna Desai.  
& another.  
Since minors through their next  
friend/mother.

[By Shri S.M.A. Advocate]

-V/s -

Defendants : Laxmibai W/o Bhimsha @ Bhimaraya Desai,  
and 11 others.

[D-1 to 5, 7, 11 and 12 Ex-Parte]

[D-6 in person]

[D-8 By Shri S.G.H. Advocate]

[D-9 By Shri S.T.R Advocate]

ORDER ON IA NO-1 FILED UNDER ORDER XXXIX

RULE 1 AND 2 OF CPC.

The plaintiffs have filed the present application praying for a temporary injunction order restraining the defendant No-1 to 12 from alienating the suit properties pending disposal of the suit.

2. The plaintiffs have contended that, the plaintiffs are the children of the defendant No-2. The defendant No-1 is the grandmother of the plaintiffs. The defendant No-3 to 5 and the defendant No-10 to 12 are the uncles and aunts of the plaintiffs. The defendant No-6 to 9 are the purchasers of the properties. The suit properties are the ancestral and joint family properties of the plaintiffs and the defendant No-1 to 5 and 10 to 12. The plaintiffs have got share in the suit properties. The defendants are now trying to alienate the suit properties. The sale deeds executed by the defendant No-1 to 5 in favour of the defendant No-6 to 9 are not binding on the

plaintiffs. On the said material grounds the plaintiffs have prayed for allowing the present application.

3. The defendants have not filed any written statement or objection to the present application.

4. On considering the case of the plaintiffs and on perusal of the records, the following points arise for my consideration for proper adjudication of the present application:

#### POINTS

- 1] Whether the plaintiffs have made out a prima-facie case in their favour?
- 2] Whether the balance of convenience leans in favour of the plaintiffs ?
- 3] Whether the plaintiffs 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 plaintiffs have produced the copies of the documents in

support of their case. The plaintiffs have produced the copy of sale deed dated 26-05-2012. From the said document it appears that, the defendant No-4 has sold the suit item No-1 property to the defendant No-6. It further appears that, the defendant No-6 has sold the suit item No-1 property to the defendant No-7 on 24-04-2015. The plaintiffs have also produced the copy of sale deed of the defendant No-7. From the said document it appears that, the defendant No-5 has sold the suit item No-2 property to the defendant No-7 on 23-02-2013.

8. The plaintiffs have also produced the copy of sale deed dated 16-08-2016. From the said document it appears that, the defendant No-3 and 4 have sold the suit item No-3 property to the defendant No-8. The plaintiffs have also produced the copy of sale deed dated 04-12-2019. From the said document it appears that, the defendant No-8 has sold the suit item No-3 property to the defendant No-9. The plaintiffs have also produced the copy of sale deed dated 10-11-2017. From the said document it appears that, the

defendant No-1 and 2 have sold the suit item No-4 property to the defendant No-8. The plaintiffs have produced the revenue records of the survey number 536/2 land measuring 9 acre 38 gunta of land. From the said documents it appears that, the suit properties were standing in the name of the grandfather of the plaintiffs by name Bhimsha in the year 1994-1995.

9. On considering the case of the plaintiffs and relationship of the parties and materials on record it appears that, the plaintiffs have made out a case for trial. The defendants at this stage have not denied the case of the plaintiffs and not produced any materials against the case of the plaintiffs. Hence, I am of the opinion that, the plaintiffs have made out a prima-facie case in their favour. Hence, I answered point No-1 in the affirmative.

10. The plaintiffs are claiming their rights over the suit properties. The plaintiffs at this stage have produced the materials in support of their case. Hence, on considering the

case of the plaintiffs and on considering the materials on record if an injunction as prayed by the plaintiffs is granted then no any harm will be going to cause to the defendants.

11. From the available materials if an injunction is granted as claimed by the plaintiffs it may not affect the rights of the defendants and it will avoid multiplicity of proceedings. If an injunction is refused to the plaintiffs it will lead to multiplicity of proceedings and may affect the rights of the plaintiffs in the suit properties. The alienation of the suit properties by the defendants will affect the rights of the plaintiffs. Hence I am of the opinion that the plaintiffs have made out a case in their 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: 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 plaintiffs 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 properties till further orders or till disposal of the present suit whichever is earlier.

The plaintiffs are hereby directed to co-operate for the early disposal of the present case, failing which the injunction order granted in favour of the plaintiffs 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 plaintiffs under order 39 Rule 1 and 2 of CPC is hereby allowed.

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Senior Civil Judge & JMFC.,  
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