

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 3rd Day of March - 2026

O.S No-110/2024.

Plaintiff : Sudhakar S/o Basavaraj Mathapati.

[By Shri K.G.P. Advocate]

-V/s -

Defendants : Basavaraj S/o Sidramayya Mathapati,
and 11 others.

[D-9 and 10 By Shri S.G.A. Advocate]

[D-12 By ADGP]

[D-1, 3 to 8 Ex-Parte]

[D-2 and 11 In-Person]

ORDER ON IA NO-2 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-2, 9, 10 and 11 from alienating the suit property pending disposal of the suit.

2. The plaintiff has contended that, the plaintiff and the defendant No-1 to 10 are the Hindu joint family members. The defendant No-1 to 10 and the plaintiff are the legal heirs of one Revanasiddayya. The suit property is the ancestral and joint family property of the plaintiff and the defendant No-1 to 10. The plaintiff has got share in the suit property. The defendant No-11 has illegally purchased the property on 18-09-2014. The defendant No-2, 9 to 11 are now trying to further alienate the suit property. On the said material grounds the plaintiff has prayed for allowing the present application.

3. The defendant No-9 and 10 have filed their written statement by denying the case of the plaintiff. They have contended that, the plaintiff has not shown the description of the suit property correctly. The partition has already taken place between the 2 sons of Revanasiddayya by name Sidramayya and Mallayya. The defendant No-9 and 10 are the sons of the Mallayya. The land bearing survey number 60/1 measuring 8 acre 2 gunta of land situated towards western side is allotted to the share of the Mallayya. The eastern side land bearing survey number 60/2 measuring 7 acre 12 gunta of land was allotted to the children of the Sidramayya. The plaintiff has filed the false suit in order to grab the land of the defendant No-9 and 10. On the said material grounds the defendant No-9 and 10 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 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 ?

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 has filed the present suit for the relief of partition and separate possession. The defendant No-1 to 8, 11 and 12 have not objected the present application. The defendant No-9 and 10 have objected the present application and contended about the prior partition between their branch and the branch of the plaintiff. The defendant No-9 and 10 have mainly disputed the location of the suit property. The plaintiff has produced the revenue record in support of his case. Considering the materials on record it appears that, the case of the defendant

No-9 and 10 as to location of the suit property can be considered only in the trial.

8. On considering the materials on record it appears that, at this stage the plaintiff has produced the materials in support of his case. The case of the defendant No-9 and 10 can be considered only in the trial. The defendant No-9 and 10 have not produced any materials to doubt the rights of the plaintiff in the suit property. 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. 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 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 defendant No-9 and 10 at this stage have not produced any materials against 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-2 and 9 to 11.

10. From the available materials if an injunction is granted as claimed by the plaintiff it may not affect the rights of the defendant No-2 and 9 to 11 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 defendant No-2 and 9 to 11 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-2 filed by the plaintiff under order 39 Rule 1 and 2 of CPC is hereby allowed.

The defendant No-2 and 9 to 11 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.

[Order pronounced in the open court vide separate sheets]

ORDER

I.A. No-2 filed by the plaintiff under order 39 Rule 1 and 2 of CPC is hereby allowed.

The defendant No-2 and 9 to 11 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.