

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 15th Day of December - 2025

O.S No-108/2025.

Plaintiff : Muttanna S/o Laxman Boruti.

[By Shri P.B.P. Advocate]

-V/s -

Defendant : Surekha W/o Muttanna Boruti.

[By Shri S.K.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 from alienating the suit properties pending disposal of the suit.

2. The applicant/plaintiff has contended that, the defendant is the wife of the plaintiff. The plaintiff and the defendant both are the government servants. The plaintiff is the Professor and the defendant is working in the postal department. The plaintiff and the defendant with their joint income have purchased the suit properties. The survey number 310/6 land was purchased in the name of the defendant on 04-07-2019 from one Siddanna S/o Shivagondappa Metri. The survey number 310/5 was purchased in the name of the father of the defendant on 09-07-2020. The plaintiff and the defendant have paid the consideration amount for the purchase of the suit properties from the Siddanna S/o Shivagondappa Metri.

3. It is further case of the plaintiff that, the father of the defendant has executed a gift deed in favour of the defendant

on 16-05-2024 with respect to the property purchased by the plaintiff and the defendant. The defendant is now trying to alienate the suit properties. The plaintiff has got half share in the suit properties. On the said material grounds the plaintiff has prayed for allowing the present application.

4. The defendant has filed her written statement by denying the case of the plaintiff. The defendant has contended that, the marriage of the plaintiff and the defendant took place on 08-05-2024. The defendant has purchased survey number 310/6 measuring 2 acre 20 gunta of land from her own earnings. The survey number 310/5 land is purchased by the father of the defendant on his own income. The father of the defendant due to love and affection has gifted the survey number 310/5 land to the defendant. The plaintiff is illegally interfering with the possession of the plaintiff over the suit properties. The defendant is the absolute owner and in possession of the suit properties. On the said material

grounds the defendant has prayed for rejection of the present application.

5. 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 applicant/plaintiff has made out a prima-facie case in his favour?
- 2] Whether the balance of convenience leans in favour of the applicant/plaintiff?
- 3] Whether the applicant/plaintiff suffer irreparable loss and damage, if the temporary injunction as sought for is not granted ?
- 4] What order ?

6. 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

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

8. On perusal of the materials on record it appears that, there is no any dispute between the parties that, the plaintiff

and the defendant are the husband and wife. There is also no any dispute between the parties that, both the plaintiff and the defendant are the government servants. The defendant has contended that, the marriage of the plaintiff and the defendant took place on 08-05-2024. The copy of registered sale deed dated 04-07-2019 has recorded that, the defendant is the wife of the plaintiff. The plaintiff has produced the sale deed of the suit properties standing in the name of the defendant and her father. The plaintiff is also produced the copy of gift deed executed by the father of the defendant in favour of the defendant. The plaintiff has produced the documents showing that, the suit property is standing in the name of the defendant.

9. The plaintiff has produced his bank statement in support of his case. From the said document it appears that, on 10-07-2019 he has paid Rs.57,000/- to the Bhagavantaraya.S.Metri. On 10-07-2019 the account of the plaintiff debited with an amount of Rs.4,68,000/- to the credit

to Siddanna S/o Shivagondappa Metri through cheque no 634120. On 04-07-2019 the Siddanna S/o Shivagondappa Metri has executed a sale deed in favour of the defendant by referring the cheque no 634120 of Rs 4,68,000/- dated 04-07-2019. The other sale deed is standing in the name of the father of the defendant and the father of the defendant has gifted the said property to the defendant. The vendor of the said sale deeds is one and the same.

10. On considering the case of the parties and relationship of the parties and materials on record it appears that, the plaintiff has made out a case for trial. The case of the defendant can be considered only in the 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.

11. The plaintiff is claiming his rights over the suit properties. The defendant at this stage has not produced any materials regarding the source of income for purchase of the suit properties. 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.

12. From the available materials if an injunction is granted as claimed by the plaintiff it may not affect the rights of the defendant 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 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.

13. 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 is 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 is 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.