

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 14th Day of January - 2026

O.S No-119/2024.

Plaintiff : Shivayya S/o Bassayya Mathapati

[By Shri.C.S.H Advocate]

-V/s -

Defendants : Revayya S/o Bassayya Mathapati
and 4 others.

[D-1 & 2 By Shri S.G.H Advocate]

[D-3 to 5 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 and 4 from alienating the suit properties pending disposal of the suit.

2. The plaintiff has contended that, the plaintiff and the defendant No-1 to 4 and the husband of the defendant No-5 by name Sharanyya are the children of the deceased Bassayya. The plaintiff and the defendants are the Hindu joint family members. The suit properties are the ancestral and joint family properties of the plaintiff and the defendants. The plaintiff has got share in the suit properties. The defendant No-1 and 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 has filed his written statement by denying the case of the plaintiff. The other defendants have not filed any objections or written statement.

4. The defendant No-1 has contended that, about 35 years back the family partition has taken place. The survey number 26/3 measuring 3 acre of land was fallen to the share of the plaintiff. The plaintiff has sold the said land to one Subhash S/o Lalappa Kanni on 20-05-2024. The defendant No-1 has purchased the suit item No-1 property bearing survey No-102 measuring 4 acre 29 gunta of land from one Allahuddin in the year 1993-94. The plaintiff is not in possession of the suit land. On the said material grounds the defendant No-1 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 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 ?

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, the relationship of the parties is not in dispute. The defendant No-1 has come with a case of earlier partition and purchase of suit item No-1 property by him and sale of the property by the plaintiff which was fallen to his share. The defendant No-1 has produced a copy of sale deed dated 20-05-2024. From the said document it appears that, the plaintiff has sold survey No-26/3 measuring 3 acre of land to one Subhash S/o Lalappa Kanni on 20-05-2024. The defendant No-1 has also produced the sale deed dated 23-04-1993. From the said

document it appears that, the defendant No-1 has purchased the suit item No-1 property from one Allahuddin.

9. The plaintiff at this stage has produced the RTC of suit item No-2 property bearing survey No-141/2 standing in the name of grandmother of the plaintiff for the year 1983 to 1988. The plaintiff has produced the mutation extract of the year 1972. From the said document it appears that, the suit item No-2 property was fallen to the share of the father of the plaintiff by name Bassayya. The plaintiff has produced the documents to show that, the suit item No-2 property was mutated in the name of the defendant No-4 from the name of father of the plaintiff. The defendant No-1 at this stage has not produced any materials to show the partition between the parties.

10. On perusal of the materials on record and considering the case of the parties it appears that, at this stage the plaintiff has produced the materials in support of his case. The defendant No-1 at this stage has not produced any clear

materials in support of his case regarding earlier partition. The case of the defendant no-1 can be considered only in the trial. On 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.

11. The plaintiff is claiming his rights over the suit properties. The plaintiff has produced the records in support of his case. The defendant No-1 at this stage has not produced any clear 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-1 and 4.

12. 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 and 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 and 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.

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 No-1 and 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.

The defendant No-1 and 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.