

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 August - 2026

O.S No-123/2025.

Plaintiff : Mallikarjun S/o Shantappa.

[By Shri P.S.H. Advocate]

-V/s -

Defendants : Channamma W/o Late Sharanappa,
and 9 others.

[D-1 Ex-Parte]

[D-2 to 10 By Shri S.K.P Advocate]

ORDER ON IA NO-I 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, 4 and 5 from alienating the suit properties pending disposal of the suit.

2. The plaintiff has contended that, the plaintiff and the defendant No-2, 5, 6 and the deceased Sharanappa, deceased Suresh and the deceased Kamalabai are the children of the Shantappa. The defendant No-1 and 3 are the legal heirs of deceased Sharanappa. The defendant No-4 is the legal heir of the deceased Suresh. The defendant No-8 to 10 are the legal heirs of the deceased Kamalabai. The defendant No-7 is the wife of the defendant No-6. The plaintiff and the defendants are the Hindu joint family members. The suit properties are ancestral and joint family properties of the plaintiff and the defendants. The plaintiff has got share in the suit properties. The defendant No-2, 4 and 5 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-2 has filed his written statement by denying the case of the plaintiff. The defendant No-2 has contended that, in the year 2002 on the demand of the plaintiff the partition has taken place. The 7 acre 10 gunta of land was fallen to the share of the plaintiff. The plaintiff has not included the survey number 17/B measuring 4 acre 25 gunta of land and survey number 18/B measuring 7 acre 38 gunta of land in the suit the said lands were fallen to the share of the defendant No-2. On the request of the plaintiff the land of the defendant No-2 and the plaintiff are exchanged. The plaintiff has executed the relinquishment deed on 26-12-2002 with respect to survey number 31 land measuring 7 acre 10 gunta of land. The defendant No-2 has transferred the survey number 17/B measuring 4 acre 25 gunta of land and survey number 18/B measuring 7 acre 38

gunta of land to the plaintiff. The defendant No-2 has also paid Rs.2,00,000/- to the plaintiff.

4. The defendant no-2 further contended that the plaintiff has sold the properties bearing survey number 17/B measuring 4 acre 25 gunta of land and survey number 18/B measuring 7 acre 38 gunta of land fallen to his share. The plaintiff has sold the properties fallen to his share in favour of one Khabir and Sharanappa in the year 2003. On the said material grounds the defendant No-2 has prayed for rejection of the present application. The defendant No-3 to 10 have filed a memo adopting the written statement of the defendant No-2.

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 negative.

Point No-2: In the negative.

Point No-3: In the negative.

Point No-4: As per the final order for
the following

R E A S O N S

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 regarding the relationship of the parties. The defendant No- 2 has come up with a case of prior partition between the parties and the exchange of land between the defendant No-2 and the plaintiff.

9. The defendant No-2 has produced one un registered relinquishment deed in support of his case. The defendants have also produced the sale deed document to show the sale

of the 7 acre 38 gunta of land in survey number 18 by the plaintiff in favour of the Sharanappa in the year 2003. The defendants have also produced the copy of sale deed showing that, the plaintiff has sold the 4 acre 25 gunta of land in survey number 17/2 in favour of the one Khanbir in the year 2003. The revenue records showing that, 7 acre 10 gunta of land in survey number 31 is in the name of the defendant No-2 from the name of the plaintiff in the year 2002 reporting the change of Khata. Earlier to the said change of Khata the 7 acre 10 gunta of land was standing in the name of the plaintiff in survey number 31.

10. On considering the case of the parties and relationship of the parties and materials on record it appears that, the plaintiff has appears to be sold 2 properties in the year 2003. The plaintiff appears to be mutated the name of the defendant No-2 to the 7 acre 10 gunta of land in the year 2002. The plaintiff has filed the present suit in the year 2025. Hence, on considering the materials on record I am of the opinion that,

the plaintiff has not made out a prima-facie case in his favour. Hence, I answered point No-1 in the negative.

11. The plaintiff is claiming his rights against the revenue records from the year 2002. The plaintiff has filed the suit in the year 2025. The defendants have come up with a case of earlier partition and sale of lands by the plaintiff which was fallen to his share in the year 2003. Hence, on considering the case of the parties and materials on record if an injunction as prayed by the plaintiff is granted then harm will be going to cause to the defendant No-2, 4 and 5.

12. From the available materials if an injunction is granted as claimed by the plaintiff it may affect the rights of the defendant No-2, 4 and 5 and it will lead to multiplicity of proceedings. If an injunction is refused to the plaintiff it will not affect the rights of the plaintiff in the suit property. The plaintiff on establishing his rights over the suit properties is entitled for the relief as per his rights. Hence I am of the

opinion that the plaintiff has not 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 negative.

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 rejected.

[Vinayak Mayannavar]
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 rejected.

[Vinayak Mayannavar]
Senior Civil Judge & JMFC.,
Afzalpur.