

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 16th Day of February - 2026

O.S No-103/2025.

Plaintiff : Suhasini D/o Madivalappa Boragi

[By Shri.S.S.P Advocate]

-V/s -

Defendants : Bouramma W/o Madivalappa Boragi
& 4 others.

[D-1 to 4 Ex-parte]

[D-5 By Shri.S.C.P & B.M.C Advocates]

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-5 from alienating the suit property pending disposal of the suit.

2. The plaintiff has contended that, the plaintiff is the daughter of the deceased Madivalappa through his second wife by name Kasturibai. The defendant No-1 is the first wife of Madivalappa. The defendant No-2 to 4 are the children of the first wife i.e., defendant No-1. The defendant No-5 is the purchaser of the suit property. The suit property is the ancestral and joint family property of the plaintiff and the defendant No-1 to 4. The defendant No-1 has illegally sold the suit property to the defendant No-5 on 06-05-2021. The said sale transaction is not binding on the plaintiff. The plaintiff has got share in the suit property. The defendant No-5 is now trying to alienate the suit property. On the said material

grounds the plaintiff has prayed for allowing the present application.

3. The defendant No-5 has filed his written statement by denying the case of the plaintiff. The defendant No-5 by way of counter claim has claimed the relief of permanent injunction against the plaintiff.

4. The defendant No-5 has contended that, the plaintiff has no any rights in the suit property. The plaintiff has filed the present suit to defeat the rights of the defendant No-5. The defendant No-5 is a bonafide purchaser of the suit property. The defendant No-5 purchased the suit property from the defendant No-1 on 06-05-2021. The defendant No-5 is the owner and in possession of the suit property. The plaintiff is trying to interfere in the possession of the plaintiff over the suit property. On the said material grounds the defendant No-5 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 her 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 plaintiff at this stage has produced her School Transfer certificate and copy of Adhar card in support of her case. The said documents have recorded that, the plaintiff is the daughter of the Madivalappa Boragi. The plaintiff has also produced the revenue records of the suit property. From the

said documents it appears that, the suit property was mutated in the name of the defendant No-1 from the name of the father of the Madivalappa by name Shivalingappa in the year 2008. The suit property was standing in the name the defendant No-1. The defendant No-1 has sold the suit property to the defendant No-5. The defendant No-2 to 4 are also consent witness to the said sale deed. On considering the materials on record it appears that, the plaintiff has produced the materials in support of her case.

9. The defendant No-5 has come up with a case by denying the relationship of the plaintiff with the Madivalappa and defendant No-1 to 4.

10. On considering the relationship claimed by the plaintiff with the defendant No-1 to 4 and considering the materials on record it appears that, at this stage the plaintiff has made out grounds in her favour. The case of the defendant No-5 can be considered only in the trial.

11. 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 her case. The defendant No-5 at this stage has not produced any materials against the case of the plaintiff. 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 her favour. Hence, I answered point No-1 in the affirmative.

12. The plaintiff is claiming her rights over the suit property. The plaintiff has produced the records in support of her case. The defendant No-5 at this stage has not produced any materials against the case of the plaintiff. At this stage considering the materials on record it is difficult to disbelieve 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-5.

13. From the available materials if an injunction is granted as claimed by the plaintiff it may not affect the rights of the defendant No-5 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-5 will affect the rights of the plaintiff. Hence I am of the opinion that the plaintiff has made out a case in her favour with regard to point of balance of convenience and irreparable loss. Hence I answered point No-2 and 3 in the affirmative.

14. 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-5 is 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]

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