

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 08th Day of December - 2025

O.S No-7/2025.

Plaintiffs : Malanbee W/o Aminoddin Shiledar
& 2 others.

[By Shri.C.S.H Advocate]

-V/s -

Defendant : Roshan bee D/o Abdul Khadar Shiledar

[By Shri M.B.P Advocate]

ORDER ON IA NO-1 FILED UNDER ORDER XXXIX

RULE 1 AND 2 OF CPC.

The plaintiffs have filed the present application praying for a temporary injunction order restraining the defendant from alienating the suit property pending disposal of the suit.

2. The plaintiffs have contended that, the suit property was allotted to the father of the plaintiff No-2 and 3 and husband of the plaintiff No-1 by name Aminoddin in O.S No-53/1977. The Aminoddin was died on 20-04-2009. The defendant illegally mutated her name to the suit property in the year 2020-2021 on the basis of a created document. The plaintiffs are the owners of the suit property. The defendant is in illegal possession of the suit property. The defendant is now trying to alienate the suit property. On the said material grounds the plaintiffs have prayed for allowing the present application.

3. The defendant has filed her written statement by denying the case of the plaintiff.

4. The defendant has contended that, the O.S No-52/1977 summons was not served upon the father in law of the defendant. The father in law of the defendant has not appeared in the said suit and not compromised the matter. The plaintiffs of the said suit in collusion with the other defendant have obtained the judgment and decree and the same is not binding on the defendant. The defendant further contended that, the father in law of the defendant has purchased survey No-41 measuring 13 acre 32 gunta of land. The said property is not concerned to the family of the plaintiffs.

5. The defendant further contended that the father of the plaintiff No-2 and 3 in the year 1995 illegal mutate his name to the suit property. The plaintiffs in the agreement dated 12-06-1995 have admitted the ownership of the defendant to the suit property. The husband of the defendant was in possession of the suit property from the year 1995 as per the deed of settlement. The brothers of the husband of the

defendant have left the suit property to the husband of the defendant. The defendant is the absolute owner and in possession of the suit property. The plaintiffs are not exercised their right over the suit property for more than 25 years. The rights of the plaintiffs in the suit property are stands extinguished. The suit of the plaintiffs is barred by law of limitation. On the said material grounds the defendant has prayed for rejection of the present application.

6. 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 applicants/plaintiffs have made out a prima-facie case in their favour?
- 2] Whether the balance of convenience leans in favour of the applicants/plaintiffs ?

3] Whether the applicants/plaintiffs suffer irreparable loss and damage, if the temporary injunction as sought for is not granted ?

4] What order ?

7. 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

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

9. On perusal of the materials on record it appears that, the plaintiffs in support of their case have produced the documents in the form of compromise decree passed in O.S No-53/1977. The plaintiffs have also produced the revenue records of the suit property standing in the name of father of the plaintiff No-2 and 3 by name Aminsab for the year 2018 and 2019. The defendant at this stage has not produced any materials in support of her case.

10. On perusal of the materials on record and considering the case of the parties at this stage it appears that, the plaintiffs have produced the materials in support of their case. The defendant at this stage has not produced any materials in support of her case. 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 plaintiffs have made out a case for trial. Hence, I am of the opinion that, the plaintiffs have made out a prima-facie case in their favour. Hence, I answered point No-1 in the affirmative.

11. The plaintiffs are claiming their rights over the suit property. The plaintiffs have produced the records in support of their case. The defendant at this stage has not produced any materials in support of her case. Hence, considering the case of the parties and materials on record if an injunction as prayed by the plaintiffs 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 plaintiffs it may not affect the rights of the defendant and it will avoid multiplicity of proceedings. If an injunction is refused to the plaintiffs it will lead to multiplicity of proceedings and may affect the rights of the plaintiffs in the suit property. The alienation of the suit property by the

defendant will affect the rights of the plaintiffs. Hence I am of the opinion that the plaintiffs have made out a case in their 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 plaintiffs 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 property till further orders or till disposal of the present suit whichever is earlier.

The plaintiffs are hereby directed to co-operate for the early disposal of the present case, failing which the injunction order granted in favour of the plaintiffs 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 plaintiffs 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 property till further orders or till disposal of the present suit whichever is earlier.

The plaintiffs are hereby directed to co-operate for the early disposal of the present case, failing which the injunction order granted in favour of the plaintiffs will be vacated automatically.

Senior Civil Judge & JMFC.,
Afzalpur.