

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 11<sup>th</sup> day of August - 2025

O.S No-139/2024.

Plaintiffs : Rajkumar S/o Ramachandra Chopde.  
and another.

[By Shri A.S.K. Advocate]

-V/s -

Defendants : Andubai W/o Bhimashankar Koli,  
and 3 others.

[D-1 By Sri S.S.P. Advocate]

[D-2 to 4 Ex-parte]

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 defendants from interfering, encroaching, cutting the trees and changing the boundaries of the suit properties pending disposal of the suit.

2. The applicants/plaintiffs have contended that, the plaintiffs are the owners and in possession of the suit properties. The suit properties bearing survey number 23/1 measuring 7 gunta of land and survey number 23/2 measuring 10 gunta of land and survey 23/12 measuring 3 acre 30 gunta of land and survey number 23/11 measuring 5 acre 35 gunta of land and survey number 23/10 measuring 2 acre of land are belonging to the plaintiffs. The plaintiffs have purchased the suit properties in the year 2020-2021. The defendants have no any rights over the suit properties. The defendants are the adjoining land owners. The defendants are trying to encroach over the suit properties. The defendants are trying to change the boundaries of the suit properties. The defendants are trying to cut the trees from the

suit properties. The defendants are claiming their land 10 feet inside the land of the plaintiffs. On the said material grounds the plaintiffs have prayed for allowing the present application.

3. The defendant No-1 has only filed his written statement by denying the case of the plaintiffs. The defendant No-1 has contended that, the defendant No-1 is the owner and in possession of survey number 23/1/7 measuring 2 acre of land. The defendant No-1 has purchased his land on 20-04-2022. The suit of the plaintiff is not maintainable for not including the vender of the defendant No-1 by name Malappa S/o Thukaram Rarode. On the said material grounds the defendant No-1 has prayed for rejection of the present application.

4. 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 ?

5. 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

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

7. On perusal of the materials on record it appears that, the defendant No-1 has not claiming any rights over the suit properties. The defendant No-2 to 4 have not denied the case of the plaintiffs. The plaintiffs have produced the RTC of the suit item no-1 to 4 properties standing in the name of the plaintiffs. Hence, on considering the materials on record at this stage it appears that the plaintiffs have produced the materials in support of their case showing their rights over the suit item no-1 to 4 properties. The plaintiffs at this stage have not produced any materials with respect to the suit item no-5 property bearing survey number 23/10 measuring 2

acre of land. Hence, on considering the materials on record I am of the opinion that, the plaintiffs have made out a case for trial. The revenue records produced by the plaintiffs are in their favour. 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.

8. The plaintiffs are claiming their rights over the suit properties. The defendant No-1 is denying the rights of the plaintiffs over the suit properties. 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 defendants.

9. From the available materials if an injunction is granted as claimed by the plaintiffs it may not affect the rights of the defendants 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 properties. The interference in the suit item no-1 to 4

properties by the defendants 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.

10. 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 partly allowed.

The defendants are hereby restrained by way of temporary injunction order from interfering with the suit item no-1 to 4 properties bearing survey number 23/2/1 and 23/2/2 and 23/1/12 and 23/1/11 properties

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]

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