

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 15th Day of December - 2025

O.S No-143/2025.

Plaintiff : Mahant S/o Mallappa Bandagar.

[By Shri S.G.H. Advocate]

-V/s -

Defendant : Santhosh S/o Amruth Bandagar.

[By Shri K.G.P. Advocate]

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 from alienating the suit properties pending disposal of the suit.

2. The plaintiff has contended that, the plaintiff is the owner and in possession of the suit properties. The defendant illegally mutated his name to the suit properties and now trying to transfer the suit properties in the name of his uncle. The defendant is required to be restrained from transferring the suit properties to the Babu S/o Mallappa Bandagar. On the said material grounds the plaintiff has prayed for allowing the present application.

3. The defendant has filed his written statement by denying the case of the plaintiff. The defendant has contended that, the suit properties are not related to the plaintiff. The plaintiff has no any rights in the suit properties. About 44 years back the partition has taken place between the family of the plaintiff and the defendant. The suit properties were fallen to the share of the father of the defendant. The father of the

defendant by name Amruth has got 2 wives. The defendant is the son of the first wife. The second wife has got 2 sons and 1 daughter. In view of objection made by the second wife the defendant has executed a gift deed in favour of his father. On the said material grounds the defendant 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 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 ?

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 negative.

Point No-2 : In the negative.

Point No-3 : In the negative.

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 plaintiff is claiming that, the plaintiff is the owner of the suit properties bearing survey number 35/6 and survey number 36/1. The plaintiff has contended that, the defendant has illegally mutated his name to the suit properties. On perusal of the records produced by the plaintiff it appears that the suit item no-1 property bearing survey number 35/6 land is standing in the name of the defendant as per the partition of the year 2016.

8. The suit item No-2 property bearing survey number 36/1 is standing in the name of the defendant as per the sale deed dated 09-06-2021.

9. The defendant has also produced copy of gift deed dated 08-08-2025 executed by him in favour of the his father by

name Amruth with respect to survey number 36/1 and 35/6 suit properties.

10. On considering the materials on record it appears that, the plaintiff at this stage has not produced any materials in support of his case. Hence 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 over the suit properties. The documents produced by the plaintiff are appears to be not in support of 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 harm will be going to cause to the defendant.

12. From the available materials if an injunction is granted as claimed by the plaintiff it may affect the rights of the defendant 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 proof of his case is entitled for the reliefs with respect to the suit properties 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.

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.

Senior Civil Judge & JMFC.,
Afzalpur.