

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 6th Day of December - 2025

O.S No-110/2023.

Plaintiffs: Shivarudrayya S/o Bassayya Swamy
& 2 others.

[By Shri.S.G.H Advocate]

-V/s -

Defendants : Shankarayya S/o Irayya Swamy
Since dead by his Lrs and 3 others.

[D-1 [a] and [b] ex-parte]

[D-1 [c] and D-2 to 4 By Sri.S.K.P & P.B.P Advocates]

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 alienating the suit property pending disposal of the suit.

2. The plaintiffs have contended that, the plaintiffs are the owners and in possession of the suit property measuring 4 acre 20 gunta of land in survey No-222 totally measuring 23 acre 14 gunta of land. The Mallikarjunayya Swamy is the ancestor of the plaintiffs and the defendants. The Mallikarjunayya Swamy has got 2 sons by name Irayya and Basayya. The plaintiffs are the sons of Basayya the defendants are the sons of Irayya. The suit property was fallen to the share of the plaintiffs. The defendants have denied the rights of the plaintiffs in the suit property and trying to alienate the suit property. On the said material grounds the plaintiffs have prayed for allowing the present application.

3. The defendant No-1 [c] and 2 to 4 have filed their written statement by denying the case of the plaintiffs. They have contended that, the plaintiff No-2 was allotted 4 acre 17 gunta in survey No-221. The 4 acre 18 gunta of land was allotted to the plaintiff No-3 in survey No-222. The 4 acre 20 gunta of land was allotted to the plaintiff No-1. The 4 acre 28 gunta was allotted to the father of the defendant No-1 [a] to [c]. The 4 acre 28 gunta of land was allotted to the defendant No-2. The 4 acre 28 gunta land was allotted to the defendant No-3. The 4 acre 29 gunta of land was allotted to the defendant No-4. The said allotment was made in the year 1988. The plaintiff No-2 and 3 have sold their land in the year 1990. The plaintiff No-1 has sold the land measuring 4 acre 20 gunta in survey No-222 to one Chandrashkhar in the year 2007. The plaintiffs have not made the purchasers as party in the present suit.

4. They have further contended that, the plaintiffs have already sold their properties. Due to wrong entry in the RTC of the defendants the plaintiffs have filed a false suit against

them. On the said material grounds the defendants have 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 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 ?

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

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 plaintiffs have produced the revenue records of survey No-222 property from the year 2001 to 2024. From the said documents it appears that, the survey No-222 is shown to be

measuring 23 acre 14 gunta of land. The name of the plaintiff No-1 is shown for 4 acre 20 gunta of land. The name of the defendant No-1 is shown for 2 acre 28 gunta of land. The name of the defendant No-2 is shown for 2 acre 28 gunta of land. The name of the defendant No-3 is shown for 2 acre 29 gunta of land. The name of the defendant No-4 is shown for 2 acre 29 gunta of land in the year 2001.

9. From the records produced by the plaintiffs it appears that, the name of the one Chandrashekhar S/o Shrimant is appearing for the 4 acre 20 gunta of land which was standing in the name of the plaintiff No-1 as per the sale deed of the year 2007. The mutation extract produced by the plaintiffs shows that, the plaintiff No-1 has sold 4 acre 20 gunta of land to the Chandrashekhar S/o Srimant Malagana. The defendants have also produced the copy of the sale deed of the said Chandrashekhar. From the said documents it appears that, plaintiff No-2 and 3 are also witnesses to the said sale deed. Hence on perusal of the materials on record it appears that, the plaintiffs have sold 4 acre 20 gunta of land

fallen to their share to one Chandrashekhhar in the year 2007. The plaintiffs have not produced any materials to show their rights with respect to the suit property at this stage.

10. The plaintiffs have contended that, the survey No-222 land is totally measuring 23 acre 14 gunta. The plaintiff No-1 has sold 4 acre 20 gunta to the Chandrashekhhar. The 2 acre 28 gunta of land is standing in the name of the defendant No-2. The 2 acre 29 gunta of land is standing in the name of defendant No-3. The 2 acre 29 gunta of land is standing in the name of defendant No-4. The 2 acre 28 gunta of land is standing in the name of defendant No-1. The remaining 7 acre of land in survey No-222 is not standing in anybody's name. The plaintiffs are in possession of 4 acre of land. The defendants are in possession 3 acre of land. The defendants are trying to interfere in the possession of the plaintiffs.

11. On perusal of the records it appears that, the defendants have produced the mutation extracts and the RTC from the year 1983 to 1998. In the said documents the survey

No-222 land was shown as 23 acre 14 gunta and out of the said land 4 acre 20 gunta of land was shown for the plaintiff No-1 as per the partition. The 4 acre 28 gunta of land is shown for the defendant No-1. The 4 acre 28 gunta of land was shown for the defendant No-2. The 4 acre 29 gunta of land is shown the defendant No-3. The 4 acre 29 gunta of land is shown to the defendant No-4.

12. From the year 2001 in the computerized RTC the name of the defendant No-1 to 4 was shown only for 2 acre 28 gunta, 2 acre 28 gunta and 2 acre 29 gunta and 2 acre 29 gunta in survey No-222 land. The total extent of survey No-222 land was shown as 23 acre 14 gunta of land. The plaintiffs are claiming their rights with respect to 4 acre of land which was reduced from the name of the defendant No-1 to 4. The plaintiffs at this stage have not produced any materials showing their rights to the land of the defendants shown in the old records. Hence considering the materials on record I am of the opinion that, the plaintiffs have not made

out a prima facie case in their favour. Hence I answered point No-1 in the negative.

13. The plaintiffs are claiming their rights against the old revenue records and against the present revenue records. The plaintiffs have not produced any materials at this stage in support of their case. The defendants at this stage have produced the materials in support of their case. Hence, considering the case of the parties and materials on record if an injunction as prayed by the plaintiffs is granted then harm will be going to cause to the defendants.

14. From the available materials if an injunction is granted as claimed by the plaintiffs it may affect the rights of the defendants and it will lead to multiplicity of proceedings. If an injunction is refused to the plaintiffs it will not affect the rights of the plaintiffs in the suit property and the plaintiffs on establishing their rights are entitled to the reliefs sought by them. Hence I am of the opinion that the plaintiffs have not 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 negative.

15. 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 rejected.

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 rejected.

Senior Civil Judge & JMFC.,
Afzalpur.