

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 14th Day of August - 2026

O.S No-141/2025.

Plaintiffs : Devaki W/o Nilkanth Patil
and 3 others.

[By Shri P.S.H. Advocate]

-V/s -

Defendants : Sangamma
W/o Late Hanumanthray Kirasavalagi
and 5 others.

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

[D-2 to 6 By Shri N.R Advocate]

ORDER ON IA NO-I 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 No-1 to 6 from alienating the suit property pending disposal of the suit.

2. The plaintiffs have contended that, the plaintiff No-1 is the daughter of the defendant No-1. The other plaintiffs are the children of the second wife of the husband of the defendant No-1. The defendant No-2 and 3 are the aunts of the plaintiffs. The defendant No-4 to 6 are the children of the deceased Parvati. The defendant No-1 is the first wife of Hanumanthraya. The Basamma is the second of wife of Hanumanthraya. With the consent of the the defendant No-1 the second marriage is performed. The plaintiffs and the defendants are the Hindu joint family members. The suit property is the joint family property of the plaintiffs and defendants. The father of the plaintiffs Hanumanthraya has

purchased the suit property on 13-06-1979. The defendant No- 2 to 6 have no any right in the suit property. The defendant No-2, 3 and mother of the defendant No- 4 to 6 have relinquished their rights in the suit property by taking money. The defendants by colluding with each other have got a compromise decree in O.S.No. 41/2019. The FDP No. 8/2024 case is pending before the Court. The said cases are not binding on the plaintiffs. The plaintiffs have got share in the suit property. The defendants are now trying to alienate the suit property. On the said material grounds the plaintiffs have prayed for allowing the present application.

3. The defendant No-2 has filed his written statement by denying the case of the plaintiffs. The defendant No-2 has contended that, the suit property was belonging to the father of the defendant No-2. On death of the father of the defendant No-2 the suit property was mutated in the name of the mother of the defendant No-2 by name Sabavva goudati. The defendant No-2 and 3 have filed suit against the defendant

No-1 and 5 and plaintiff No-2 in O.S. No. 41/2019. The said suit was compromised. The plaintiffs have no any right in the suit property. On the said material grounds the defendant No-2 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 plaintiffs have made out a prima-facie case in their favour?
- 2] Whether the balance of convenience leans in favour of the plaintiffs ?
- 3] Whether the 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, there is no any dispute between the parties regarding the relationship of the parties. The defendant No- 2 has come up with a case that, the plaintiffs have no any right in the suit property. The matter is compromised in O.S.No. 41/2019. The plaintiffs have produced the revenue records of the suit property. From the said document it appears that, the name of the defendant No-1 is appearing to the suit property. The suit property was earlier standing in the name of the Sahebgouda.

8. On considering the case of the parties and relationship of the parties and materials on record it appears that, the plaintiffs have made out a case for trial. The case of the defendant 2 can be considered only in the 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.

9. The plaintiffs are claiming their rights over the suit property. The defendant No- 2 is denying the right of the plaintiffs in the suit property. The defendant No- 2 at this stage has not produced any acceptable materials in support of her case. Hence, on 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 No-1 to 6.

10. From the available materials if an injunction is granted as claimed by the plaintiffs it may not affect the rights of the defendant No-1 to 6 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 No-1 to 6 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.

11. 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 No-1 to 6 are 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.

[Vinayak Mayannavar]
Senior Civil Judge & JMFC.,
Afzalpur.

[Order pronounced in the open court vide separate sheets]

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[Vinayak Mayannavar]
Senior Civil Judge & JMFC.,
Afzalpur.