

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 01st Day of December - 2025

O.S No-131/2023.

Plaintiff : Dhanamma W/o Revanasiddayya Hiremath.

[By Shri S.S.P. Advocate]

-V/s -

Defendants : Gosayya S/o Nagabasayya Ugrana Math
and 14 others.

[D-1 to 5 By Shri S.G.H. Advocate]

[D-6 to 15 Ex-parte]

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 No-1 and 2 from alienating the suit properties pending disposal of the suit.

2. The applicant/plaintiff has contended that, the suit properties are belonging to great grandmother of the plaintiff by name Kalawwa. The Kalawwa has got 4 daughters by name Murgewwa, Subhadrawwa and Sugalabai and Satirewwa. The defendant No-10 to 15 are the legal representatives of the Muregewwa. The defendant No-1 to 5 are the legal representatives of the Subhadrawwa. The plaintiff and defendant No-7, 8 and 9 are the legal representatives of the Sugalabai. The Saterewwa is the defendant No-6. The suit properties are nominally mutated in the name of the defendant No-1. The plaintiff and and defendant No-1 to 15 have got share in the suit properties. The Kalawwa died about 3 years back. The defendant No-1 and 2 have denied the

rights of the plaintiff. The defendant No-1 and 2 are now trying to alienate the suit properties.

3. The defendant No-1 has filed his written statement by denying the case of the plaintiff. The other defendants have not filed their written statement or objections to the present application.

4. The defendant No-1 has contended that, the suit of the plaintiff is bad for non-inclusion of house property. The suit properties are the absolute properties of the Kalawwa. The suit properties were bequeathed by the Kalawwa in favour of the defendant No-1 by will deed dated 08-09-1971. The defendant No-1 is the absolute owner of the suit properties. The suit of the plaintiff is barred by law of limitation. The Kalawwa was died in the year 1980-1981. The defendant No-1 has already divided the suit properties between his children i.e., the defendant No-2 to 4. On the said material grounds the defendant No-1 has 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 applicant/plaintiff has made out a prima-facie case in her favour?
- 2] Whether the balance of convenience leans in favour of the applicant/plaintiff?
- 3] Whether the applicant/plaintiff 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 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

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 plaintiff is claiming her rights by way of inheritance. The defendant No-1 is claiming his absolute rights to the suit properties under a will deed. The defendant No-1 at this stage has not produced any materials in support of his case. The

plaintiff has produced the revenue records of the suit properties standing in the name of the Kalawwa. The case of the defendant No-1 can be considered only in the trial.

9. On considering the case of the parties and relationship of the parties and materials on record it appears that, the plaintiff has made out a traible case in her favour. Hence, I am of the opinion that, the plaintiff has made out a prima-facie case in her favour. Hence, I answered point No-1 in the affirmative.

10. The plaintiff is claiming her rights over the suit properties. The defendant No-1 at this stage has not produced any materials in support of his case. Hence, considering the case of the parties and materials on record if an injunction as prayed by the plaintiff is granted then no any harm will be going to cause to the defendant No-1 and 2.

11. From the available materials if an injunction is granted as claimed by the plaintiff it may not affect the rights of the defendant No-1 and 2 and it will avoid multiplicity of

proceedings. If an injunction is refused to the plaintiff it will lead to multiplicity of proceedings and may affect the rights of the plaintiff in the suit properties. The alienation of the suit properties by the defendant No-1 and 2 will affect the rights of the plaintiff. Hence I am of the opinion that the plaintiff has made out a case in her favour with regard to point of balance of convenience and irreparable loss. Hence I answered point No-2 and 3 in the affirmative.

12. 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 allowed.

The defendant No-1 and 2 are hereby restrained by way of temporary injunction from

alienating the suit properties till further orders or till disposal of the present suit whichever is earlier.

The plaintiff is hereby directed to co-operate for the early disposal of the present case, failing which the injunction order granted in favour of the plaintiff 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 plaintiff under order 39 Rule 1 and 2 of CPC is hereby allowed.

The defendant No-1 and 2 are hereby restrained by way of temporary injunction from alienating the suit properties till further orders or till disposal of the present suit whichever is earlier.

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

Senior Civil Judge & JMFC.,
Afzalpur.