

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 10th Day of December - 2025

O.S No-157/2024.

Plaintiff : Bhagamma W/o Yaragallappa Talawar

[By Shri.D.K Advocate]

-V/s -

Defendants : Srishail S/o Peerappa Guded
& 2 others.

[By Shri S.S.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 No-1 from alienating the suit property pending disposal of the suit.

2. The plaintiff has contended that, the Peerappa is the father of the plaintiff. The Bheembai is the first wife of the Peerappa and mother of the plaintiff. The Sharanamma is the second wife of the Peerappa. The defendant No-1 to 3 are the children of Sharanamma and Peerappa. The Peerappa, Bhimbai and Sharanamma are no more. The suit property is the ancestral and joint family property of the plaintiff and the defendants. The plaintiff being the daughter of first wife she is entitled for half share in the suit property. The defendants have denied the rights of the plaintiff in the suit property. The defendant No-1 is now trying to alienate the suit property. On the said material grounds the plaintiff has prayed for allowing the present application.

3. The defendants have filed their written statement by denying the case of the plaintiff.

4. The defendants have contended that, the plaintiff and mother of the plaintiff are not related to the family of the defendants. The mother of the plaintiff was also called as Bhimawwa. The mother of the plaintiff i.e., Bhimawwa is the wife of one Bhagwantray. The Bhagwantray and Bhimawwa have got 4 children by name Bhagamma, Channabasava, Ningappa and Satamma. The plaintiff has got 2 daughters by name Parvati and Sharanamma. Both the daughters of the plaintiff were given in marriage to her own brother i.e., Ningappa. 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 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 in support of her case has produced the documents with respect to the suit property. The suit property is standing in the name of the defendant No-1. The defendants have denied status of the plaintiff by denying the relationship of the plaintiff with them. The defendants at this stage have produced the family tree of the defendants and Voters list. On perusal of the materials on record it appears that, the plaintiff has claimed that, she is the daughter of first wife of Peerappa. The defendants have denied the said aspect.

The said fact can be determined only in the trial. The plaintiff at this stage has made out a case for trial.

9. On perusal of the materials on record and considering the case of the parties it appears that, at this stage the plaintiff has produced the materials in support of her case. The defendants at this stage have not produced any materials against the case of the plaintiff. Hence considering the case of both the side it appears that, both the parties are required to be given an opportunity to put forth their case on merits. Hence, considering the materials on record I am of the opinion that, the plaintiff has made out a case for trial. 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 property. The plaintiff has produced the records in support of her case. The defendants at this stage have not produced any materials against 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 no any harm will be going to cause to the defendant No-1.

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 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 property. The alienation of the suit property by the defendant No-1 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 is 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 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.