

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 3rd Day of August– 2026

O.S No-179/2025

Plaintiff : Jayamma W/o Ranappa

[By Smt. ATD. Advocate]

-V/s –

Defendants : Ansubai W/o Late Laxman
and 8 others.

[D-1,3,4,6,7 ex-parte]

[D-2, 5,8 in-person]

[D-9 By Shri. S.G.H. advocate]

ORDER ON IA NO-1 FILED UNDER
ORDER XXXIX RULE 1 AND 2 OF CPC.

The plaintiff has filed the present application for a temporary injunction order restraining the defendant No-9 from alienating the suit property pending disposal of the suit.

2. The plaintiff has contended that, one Lagasu is the grandfather of the plaintiff. The Lagasu has got two sons by name Sharanappa and Vitthal. The plaintiff and the defendant No- 1 to 5 are the legal heirs of the Sharanappa. The defendant No-6 to 8 are the legal heirs of the Vitthal. The plaintiff and the defendant No-1 to 8 are the Hindu joint family members. The suit property is the ancestral and joint family property of the plaintiff and the defendant No-1 to 8. The defendant No-9 has purchased the suit property on 28-09-2004 from the defendant No-1, 6 and 7. The plaintiff has got share in the suit property. The sale deed of the defendant No-9 is not binding on the plaintiff. The defendant

No-9 is now trying to alienate the suit property. On the said material grounds the plaintiff has prayed for allowing the present application.

3. The defendant No-9 has only filed his written statement by denying the case of the plaintiff. The defendant No-9 has contended that, the defendant No-6 and 8 have sold the suit property to the defendant No-9 on 15-03-2004 through a registered sale deed. The suit of the plaintiff is barred by Law of Limitation. The suit property was fallen to the share of Vitthal. The defendant No-6 and 8 for their family necessities have sold the property to the defendant No-9. The defendant No-9 has sold the suit property in favour of Nagaraj S/o Revansiddappa Awantagi and Shivalingappa S/o Revansiddappa Awantagi and Viresh S/o Kalyanappa Kobal and Ravikanth S/o Shivasharanappa Kobal on 25-03-2026. The plaintiff is not in possession of the suit property. On the said material grounds the defendant No-9 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 her 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 4 : 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 suit property was earlier standing in the name of Sharanappa in the year 1963. The name of the son of Sharanappa and name of the Vitthal was mutated in the year 1998 for separate

extent of the land in their name. The defendant No-1 has sold 3 acre of land to the defendant No-9 on 15-03-2004. The defendant No-6 has sold 2 acre 38 gunta of land to the defendant No-9 on 15-03-2004. The name of the defendant No-9 was mutated in the year 2004 to the suit property. The plaintiff has filed the present suit in the year 2025. Hence, on considering the materials on record a serious doubt arises about the Limitation for filing the present suit. The plaintiff has come up with a case of ancestral property. The plaintiff at this stage has not shown how the suit property was standing in the name her grandfather. The plaintiff is a daughter and claiming her rights in the property sold by her family members in the year 2004 by filing a suit in the year 2025.

8. On considering the case of the parties and relationship of the parties and materials on record it appears that, the plaintiff has not made out a prima-facie case in her favour. Hence, I answered point No-1 in the negative.

9. The plaintiff is claiming her rights in the year 2025 to the property sold out in the year 2004. The plaintiff at this stage has not produced any materials in support of her case. The materials produced by the plaintiff at this stage are appears to be against the case of the plaintiff. Hence on 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 No- 9.

10. From the available materials if an injunction is granted as claimed by the plaintiff it may affect the rights of the defendant No-9 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 establishing her rights in the suit property is entitled for the relief as per her rights. Hence I am of the opinion that the plaintiff has not 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 negative.

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-I filed by the plaintiff under order 39 Rule 1 and 2 of CPC is hereby rejected.

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

[Order pronounced in the open court vide separate sheets]

ORDER

I.A. No-I filed by the plaintiff under order
39 Rule 1 and 2 of CPC is hereby rejected.

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