

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 7th Day of February - 2026

O.S No-160/2024.

Plaintiffs: Ningappa S/o Dharmanna Patil,
and another,

[By Shri P.B.P Advocate]

-V/s -

Defendants : Yallaling @ Yallappa S/o Laxman Patil,
and 11 others.

[D-1, 2, 4, 8, 9 By Shri D.B.P Advocate]

[D-12 By Shri K.G.P Advocate]

[D-3, 5 to 7 and 10 Ex-Parte]

[D-11 In-person]

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 defendant No-3, 11 and 12 from alienating the suit item No-1 properties bearing survey number 15/1, survey number 15/6, and survey number 15/7 pending disposal of the suit.

2. The plaintiffs have contended that, the plaintiffs and the defendants are the Hindu joint family members. The suit properties are the ancestral and joint family properties of the plaintiffs and the defendants. No any partition has taken place in the suit properties between the plaintiffs and the defendants. The plaintiffs have got share in the suit properties. The father of the defendant No-1 to 5 without any knowledge to the plaintiffs has sold 2 acre 23 gunta of land in survey number 15 to the defendant No-12. The Laxman has executed a gift deed on 21-09-2023 in favour of the defendant

No-3 for 2 acre 23 gunta of land. The defendant No-3 has sold 1 acre of land on 15-05-2024 to the defendant No-11 without any knowledge to the plaintiffs. The said deeds are not binding on the plaintiffs. The defendant No-3, 11 and 12 are now trying to alienate the suit properties. On the said material grounds the plaintiffs have prayed for allowing the present application.

3. The defendant No-12 has filed his written statement by denying the case of the plaintiffs. The defendant No-12 has contended that, the Laxman has mortgaged the property to the defendant No-6 on 07-05-2015. The Laxman has sold the property to the defendant No-12. The defendant No-12 is a bonafide purchaser. The suit of the plaintiffs is bad for non joinder of the necessary parties. The plaintiffs have not included the first wife's son of Siddappa by name Lagamanna in the present suit. The plaintiffs have not included all the properties in the present suit. On the said material grounds the defendant No-12 has prayed for rejection of the present application.

4. The defendant No-1, 2 and 4 have filed their written statement by admitting the case of the plaintiffs. The said defendants have also claimed their share by way of a counter claim.

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 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 ?

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 plaintiffs have produced the revenue records of the suit properties standing in the name of the Laxman S/o Siddappa.

The defendant No-12 appears to be purchased 2 acre 20 gunta of land in the year 2023. The Laxman appears to be executed a gift deed to the defendant No-3 for 2 acre 26 gunta of land on 19-09-2023. The defendant No-3 appears to be sold 1 acre of land to the defendant No-11 on 15-05-2024.

9. On considering the materials on records it appears that, at this stage the plaintiffs have produced the materials in support of their case. The case of the defendant No-12 can be considered only in the trial. The defendant No-12 has not produced any materials in support of his case at this stage. 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. On considering the materials on record I am of the opinion that, the plaintiffs have made out a case for 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.

10. The plaintiffs are claiming their rights over the suit properties. The plaintiffs have produced the records in support of their case. The defendant No-3, 11 and 12 at this stage have not produced any materials against the case of the plaintiffs. Hence, 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-3, 11 and 12.

11. From the available materials if an injunction is granted as claimed by the plaintiffs it may not affect the rights of the defendant No-3, 11 and 12 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 properties. The alienation of the suit properties by the defendant No-3, 11 and 12 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.

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 plaintiffs under order 39 Rule 1 and 2 of CPC is hereby allowed.

The defendant no-3,11 and 12 are hereby restrained by way of temporary injunction from alienating or creating any charge over the suit properties 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.

Senior Civil Judge & JMFC.,
Afzalpur.

[Order pronounced in the open court vide separate sheets]

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