

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-3 FILED UNDER ORDER XXXIX

RULE 1 AND 2 OF CPC.

The defendant No-12 has filed the present application praying for a temporary injunction order restraining the plaintiffs and the defendant No-1 to 11 from interfering with the the possession of the defendant No-12 over the suit property bearing survey number 15/6 measuring 2 acre 20 gunta of land pending disposal of the suit.

2. The defendant No-12 has contended that, defendant No-12 is the bonafide purchaser of the survey number 15/6 measuring 2 acre 20 gunta of land. The father of the defendant No-1 to 4 i.e., deceased Laxman has sold the property to the defendant No-12. The deceased Laxman has sold the property fallen to his share to the defendant No-12 for the family and legal necessities on 14-06-2023. From the date of purchase of the property the defendant No-12 is in possession of the said property. The plaintiffs and the

defendant No-1 to 11 are likely to interfere in the possession of the defendant No-12. On the said material grounds the defendant No-12 has prayed for allowing the present application.

3. The plaintiffs have filed objections to the present application by denying the grounds of the application. The plaintiffs have contended that, the suit properties are the ancestral and joint family properties of the plaintiffs and the defendant No-1 to 11. The defendant No-12 is not in possession of the suit property. On the said material grounds the plaintiffs have 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 defendant No-12 has made out a prima-facie case in his favour?
- 2] Whether the balance of convenience leans in favour of the defendant No-12 ?
- 3] Whether the defendant No-12 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 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, 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. On considering the materials on records it appears that, at this stage the plaintiffs have produced the materials in support of their case.

8. On considering the materials on record it appears that, 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. The defendant No-12 appears to purchased the property on 13-06-2023. The plaintiffs have filed the present suit on 16-10-2024. 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. The defendant No-12 is claiming his rights under a sale deed. The said sale deed is under challenge in the present suit. The plaintiffs are claiming their share in the suit properties and filed the present suit for partition. Considering the nature of the suit and materials on record at this stage it appears that, the defendant No-12 has not made out a case in his favour. Hence, I am of the opinion that, the defendant No-12 has not made out a prima-facie case in his favour. Hence, I answered point No-1 in the negative.

9. The plaintiffs are claiming their rights over the suit properties. The plaintiffs have produced the records in support of their case. The defendant No-12 is claiming his rights under a sale deed which is under a challenge in the present suit. Hence, considering the case of the parties and materials on record if an injunction as prayed by the defendant No-12 is granted then more harm will be going to cause to the plaintiffs and defendant No-1 to 11.

10. From the available materials if an injunction is granted as claimed by the defendant No-12 then it may affect the rights of the plaintiffs and the defendant No-1 to 11 and it will lead to multiplicity of proceedings. If an injunction is refused to the defendant No-12 it will not affect the rights of the defendant No-12 in the suit properties. The defendant No-12 is claiming his rights under a sale deed. The defendant No-12 on proving his case is entitled for the relief. Hence I am of the opinion that the defendant No-12 has not made out a case in his 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-3 filed by the defendant No-12 under order 39 Rule 1 and 2 of CPC is hereby rejected.

Senior Civil Judge & JMFC.,
Afzalpur.

[Order pronounced in the open court vide separate sheets]

ORDER

I.A. No-3 filed by the defendant No-12 under order 39 Rule 1 and 2 of CPC is hereby rejected.

Senior Civil Judge & JMFC.,
Afzalpur.