

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 06<sup>th</sup> Day of April - 2026

O.S No-175/2024.

Plaintiff : Siddappa S/o Laxman Jamadar

[By Shri S.K.P. Advocate]

-V/s -

Defendants : Ashok S/o Laxman Jamadar  
and 8 others.

[D-1 to 8 by Shri S.S.P. Advocate]

[D-9 by Shri.D.B.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 and 9 from alienating the suit properties bearing survey No-609/3 and survey No-609/1 pending disposal of the suit.

2. The plaintiff has contended that, the plaintiff and the defendant No-1 to 8 are the sons and daughters of one Laxman S/o Mallappa Jamadar. The defendant No-9 is not related to the family of the plaintiff. The plaintiff and the defendant No-1 to 8 are the Hindu joint family members. The suit properties are the ancestral and joint family properties of the plaintiff and the defendant No-1 to 8. The plaintiff has got 1/9<sup>th</sup> share in the suit properties. The defendant No-9 has illegally mutated his name to the suit property. The defendant No-1 and 9 are now trying to alienate the suit properties bearing survey No-609/1 and survey No-609/3. On the said material grounds the plaintiff has prayed for allowing the present application.

3. The defendant No-1 to 8 have filed their written statement. They have contended that, the plaintiff has not included the hand loan amount of Rs.35,00,000/- taken by the father of the plaintiff. The plaintiff has not included the tractor loan. The father of the plaintiff has taken hand loan from the defendant No-9. The suit of the plaintiff without including the said loan is not maintainable. The other case of the plaintiff is admitted by the defendant No-1 to 8. On the said material grounds the defendant No-1 to 8 have prayed for rejection of the present application.

4. The defendant No-9 has filed his written statement by denying the case of the plaintiff. The defendant No-9 has contended that, the father of the plaintiff has taken Rs.35,00,000/- from the defendant No-9 for his family necessities. The defendant No-2 has sold the survey No-609/1 measuring 3 acre 20 gunta of land to the defendant No-9 on 09-08-2016 for the family necessities. The defendant No-9 is the absolute owner of the survey No-609/1 measuring 3 acre

20 gunta of land. The defendant No-9 has claimed the relief of declaration of his ownership and injunction against the plaintiff and the defendant No-1 to 8 by way of counter claim. On the said material grounds the defendant No-9 has prayed for rejection of the present application.

5. The plaintiff has filed rejoinder to the counter claim of the plaintiff. The plaintiff has denied the loan amount of Rs.35,00,000/- and sale of the suit property by the defendant No-2 to the defendant No-9 for the family necessities.

6. 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 his 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 ?

7. 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

8. Point No-1 to 3 : Since these points are interlinked together, I take up these points for consideration together to avoid repetition.

9. On perusal of the materials on record it appears that, the defendant No-1 to 8 have not denied the case of the plaintiff. The defendant No-9 has come up with a case of sale of property by the defendant No-2 to the defendant No-9 for the family necessities. The plaintiff at this stage has produced the revenue records standing in the name of the deceased mother of the plaintiff, brother of the plaintiff and the defendant No-9. The defendants at this stage have not produced any materials in support of their case.

10. 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 case for trial. The case of the defendants can be considered only in the trial. Hence, I am of

the opinion that, the plaintiff has made out a prima-facie case in his favour. Hence, I answered point No-1 in the affirmative.

11. The plaintiff is claiming his rights over the suit properties. The defendants at this stage have not produced any materials in support of their 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 9.

12. 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 9 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 9 will affect the rights of the plaintiff. Hence I am of the opinion that the plaintiff has 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 affirmative.

13. 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 9 are hereby restrained by way of temporary injunction from alienating the suit properties bearing survey No-609/1 and survey No-609/3 situated at Afzalpur 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.