

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 12th Day of August - 2026

O.S No-177/2025.

Plaintiff : Iranna S/o Siddaramappa Koulagi

[By Shri S.G.A. Advocate]

-V/s -

Defendants : Siddaramppa
S/o Late Shivayogeppa Koulagi
and 3 others.

[D-1 to 3 By Ex-Parte]

[D-4 By Shri R.K Advocate]

ORDER ON IA NO-III 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-4 from alienating the suit item No- E and F properties pending disposal of the suit.

2. The plaintiff has contended that, the defendant No-1 and 2 by colluding with each other without any exclusive rights have sold the suit item No-E and F properties to the defendant No-4 on 02-02-2024. The said sale was made in violation of Section 22 of Hindu Succession Act. The defendant No-4 is now trying to alienate the suit item No- E and F properties. The plaintiff has got right of preemption over the suit item No- E and F properties. On the said material grounds the plaintiff has prayed for allowing the present application.

3. The defendant No-4 has filed his objections by denying the case of the plaintiff. The defendant No-4 has contended that, the defendant no-4 has purchased the suit item no-E and F properties. The defendant no-4 is in possession of the said properties. The right of preemption is not applicable to the plaintiff. The court fee paid by the plaintiff is not proper. On the said material grounds the defendant no-4 has prayed for rejection of the present application.

4. On considering the case of the plaintiff 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 ?

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 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

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 plaintiff is the son of the defendant no-1. The defendant no-1 has sold the suit item no-E and F properties to the defendant no-4 on 23-01-2024. The plaintiff has filed the suit for the relief of preemption against the defendant no-4 with respect to the suit item no E and F properties.

8. On considering the case of the plaintiff and on considering the relationship of the parties and materials on record it appears 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 his favour. Hence, I answered point No-1 in the affirmative.

9. The plaintiff is claiming his rights over the suit properties. The defendants at this stage have not produced any materials contrary to the case of the plaintiff. The case of the defendant no-4 can be considered only in the trial. Hence, on considering the case of the parties and materials on record I am of the opinion that if an injunction as prayed by the plaintiff is granted then no any harm will be going to cause to the defendant No-4.

10. From the available materials if an injunction is granted as claimed by the plaintiff it may not affect the rights of the defendant No-4 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 item no-E and F properties. The alienation of the suit item no-E and F properties by the defendant No-4 will affect the rights of the plaintiff in the suit item no-E and F properties. 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.

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

The defendant No-4 is hereby restrained by way of temporary injunction from alienating the suit item no-E and F properties 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.

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

[Order pronounced in the open court vide separate sheets]

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

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[Vinayak Mayannavar]

Senior Civil Judge & JMFC.,
Afzalpur.