

**IN THE COURT OF THE PRINCIPLE JUNIOR CIVIL JUDGE
AT: NARAYANPET**

Monday, this the 09th day of October, 2023.

**PRESENT:- SRI MOHAMMAD UMAR,
PRL. JUNIOR CIVIL JUDGE,
NARAYANPET.**

I.A.No.159 of 2021
In
O.S. No. 46 of 2021

Between:

Thippanna Saibanna Dhangar S/o Late Saibanna Dhangar

@ Saibanna Kurva, Age: 43 years, Occ: Private Employee,

R/o H.No. 1- 100, Ujjelly village of Maganoor mandal,

Narayanpet District, presently

R/o Laxmi Welfare Society, Juhu Lane, Dhangarwadi, Gilbert Hill RD,

near Laxmi Mandir, Andheri West, Greater Mumbai, Maharashtra.

...Petitioner/Plaintiff.

AND

1. Balappa S/o Late Saibanna Kurva @ Late Saibanna Dhangar,

Age: 44 years, Occ: Agriculture,

R/o H.No.1- 100, Ujjelly village of Maganoor mandal,

Narayanpet District. Presently R/o Dhangarwadi, Laxmi Welfare
Society, Juhu Lane, Andheri West, Mumbai, Maharashtra.

2. Smt. Ventakatamma W/o Balappa

Age: 38 years, Occ: Agriculture,

R/o H.No.1- 100, Ujjelly village of Maganoor mandal,

Narayanpet District. Presently R/o Dhangarwadi, Laxmi Welfare
Society, Juhu Lane, Andheri West, Mumbai, Maharashtra.

3. Baba Tajuddin S/o Abdul Raheem Sab,
Age:45 years, Occ: Business,
R/o H.No. 6 - 74/1, Azadnagar, Makthal town and mandal,
Narayanpet District.

...Respondents/Defendants.

This petition is coming on this day before me for Final hearing in the presence of Sri. Mallikarjun learned Advocate for the petitioners and Sri. K.Narsimulu learned Advocate for the respondents and upon perusal of the material papers, on record, and the matter having stood over for consideration till this day, this Court made the following:

ORDER

This petition is filed Under Order XXXIX Rule 1 and 2 of Code of Civil Procedure, 1908 praying this court to grant temporary injunction order restraining respondent/defendant, from alienating the petition schedule property till disposal of main suit.

Brief averments of the application as follows:

1. In the year 1996 the petitioner and Respondent No.1 jointly purchased the petition schedule property through Registered sale deed document No.274/1996 from its previous owner namely Afzal Hussian and the original document remained with the respondent No.1 as he is the elder brother of the petitioner. The petitioner since the year 2004 working as driver in Mumbai city since then he has entrusted to look after the petition schedule property to the respondent No.1. The petitioner often used to look after the petition schedule property whenever he came down to Ujjelly. The

respondent No.1 created first fake document i.e., relinquishment deed document No.2009/2014 through which the respondent No.1 without knowledge and consent of the petitioner created the said document infact no point of time petitioner went to Sub Registrar Makthal or any other authority to execute the fake relinquishment deed. The respondent No.1 illegally without consent of the petitioner executed the registered Settlement deed document No. 821/2015.Later the defendant No.1 created the third document which is the fake supplementary deed document No.4375/2019,dated 01-10-2019, SRO Makthal in favor of defendant No.2.

2. The defendant No.1 and 2 collusively created the fourth fake and fabricated document, which is the sale deed document No. 4384/2019, dated 03-11-2019, SRO Makthal, through which the defendant No. 1 and 2 illegally and without knowledge and consent of the plaintiff, created fake and illegal documents. All these documents are fake and fabricated by the Respondents in collusion without any knowledge and consent of the petitioner.

3. The Petitioner and repondent No.1 have equal share over the petition schedule property. Hence the Petition.

4. Notices were dispatched and served to the respondent No.1, 2,3 they engaged the counsel and they filed the counter.

5. The brief averments of counter the Respondents:

The Respondents vehemently denied the averments of the petition. In the year 2014 the petitioner facing family and financial problems approached the respondent No. 1 and proposed to sale the petition schedule property. For which the respondent No.1 agreed and purchased the half share of Petitioner and paid 1,55,000/- and the petitioner executed relinquishment deed vide Document No. 2009/2014 and the said original relinquishment deed is in the custody of petitioner. Due to the illiteracy the Respondents not in registered gift document No.821/2015 not mentioned the gift document to some other persons they are given advice to defendant No.1 and 2 rectify the said correction. Due to the document No.1 is executed registered supplementary document, vide document No. 4375/2019 to rectify the plot number. The petitioner is no way concern and relinquished his legitimate right over the petition schedule property by executing the relinquishment deed. Hence he prayed to court to dismiss the petition.

5. To substantiate the case of petitioner they got marked Ex.P1 to Ex.P5 and Ex.R1 to Ex.R7 got marked to substantiate the case of respondent. Heard both learned counsel. Perused the material available on the record.

6. Basing upon facts and circumstances and rival contentions of the parties to the petition the point for consideration is:

I. Whether the petitioner is entitled to get temporary injunction to restrain the respondents from alienating the petition schedule property till the disposal of the suit'?

II. To What Relief?

POINT:

7. It is evident from Ex.P1 that the petitioner and respondent No.1 purchased petition schedule property jointly. Ex.P2 is certified copy of relinquishment deed. Ex.P3 is Settlement deed executed by the respondent No.1 in favor of respondent No.2. On perusal of Ex.P4 respondent No.1 executed supplementary deed in favor of respondent No.2 on perusal of Ex.P5 respondent No.2 executed the registered sale deed in favor of respondent No.3 in respect of petition schedule property.

8. On perusal of Ex.R1 the petitioner and respondent No.1 jointly purchased the petition schedule property. Ex.R2 is Relinquishment deed is executed by the petitioner Ex.R3 is settlement deed executed by the respondent No.1 in favor of respondent No.2. Ex.R4 is supplementary deed excuted by the respondent No.1 in favor of

respondent No.2. Ex.R5 is original registered sale deed executed by the respondent No.2 in favor of Respondent No.3. Ex.R6 is true Extract of assesment of registrer standing in the name of respondent No.3.

9. On careful perusal and having gone through the entire pleading of the petitioner is denying the execution of Ex.P2 and R2. The counsel for the petitioner during the hearing submitted that the person who is showing in Ex.P2 and R2 is not the petitioner and the petitioner is denying the signature, Identity, Photograph, and address proof mentioned in Ex.P2 and Ex.R2.

10. The counsel for the respondents in reply submitted that what prevented the petitioner for filing criminal case against respondent No.1 and respondent No.2. In reply the counsel for the petitioner submitted that, the petitioner have approached police but they refused to take action as such he approached this court.

11. The scope and ambit of interlocutory application is very limited at this juncture the question of entitlement of share and maintainability of document can not be decided. The petitioner denying the execution of Ex.P2 and Ex.R2. The present petition is filed for not to alienate the petition schedule property till disposal of main suit. Therefore to avoid the multiplicity of proceedings and for

the proper adjudication, this court is inclined to allow the present petition.

12. The very purpose of granting a temporary injunction is to protect the rights of both parties and to maintain the status-quo of the suit schedule property. In the present case, I have found prima facie case in favour of the petitioners and if an injunction is not granted in favour of the petitioner certainly the petitioner will suffer irreparable loss and hardship for all these reasons it is fit case to grant temporary injunction in favour of the petitioner restraining the respondents alienating the petition schedule property. Accordingly this point is answered against the Respondents and in favour of petitioner.

II. To What Relief.

In the result, the petition is allowed and temporary injunction is granted restraining the respondent from alienating the petition schedule property till disposal of main suit. No Costs.

{ Typed, corrected and pronounced by me, in the Open Court, on this 09th Day of October, 2023 }.

***Prl. Junior Civil Judge,
Narayanpet.***

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

FOR THE PETITIONER

- NIL -

FOR THE RESPONDENTS

- NIL -

EXHIBITS MARKED

FOR THE PETITIONER:

- Ex.P1 CC of registered sale deed document No.274/1996 dated 28-05-1996.
- Ex.P2 True copy of relinquishment deed document No.2009/2014 dated 05-11-2014
- Ex.P3 True copy of gift settlement deed document No.821/2015 dated 08-04-2015
- Ex.P4 True copy of supplementary deed document No.4375/2019 dated 01-10-2019.
- Ex.P5 True copy of sale deed document No.4384/2019 dated 03-10-2019.

FOR THE RESPONDENT:

- Ex.R1 CC of registered sale deed document No.274 of 1996 dated 28-05-1996.
- Ex.R2 CC of relinquishment deed document No.2009 of 2014 dated 05-11-2014
- Ex.R3 Original gift settlement deed document No.821/2015 dated 08-04-2015
- Ex.R4 Original supplementary deed document No.4375 of 2019 dated 01-10-2019.
- Ex.R5 Original sale deed document No.4384 of 2019 dated 03-10-2019.
- Ex.R6 Ownership certificate obtained by Municipality Makthal Proceeding No.A1/381/2021, dated 04-09-2021.
- Ex.R7. Photographs along with CD.

**Prl. Junior Civil Judge,
Narayanpet.**