

KABC010107602024



**IN THE COURT OF I ADDITIONAL CITY CIVIL &
SESSIONS JUDGE (CCH-02) AT BENGALURU**

PRESENT : **Sri. B.P. DEVAMANE, LL.M.,**
I Addl. City Civil & Sessions Judge,
Bengaluru City.

Dated this the 20th day of August 2025

O.S.2897 / 2024

PLAINTIFF : **Smt. Ekta Kukreja,**
Director of Anushka Constructions
Private Limited,
D/o late Nanda Kumar Bashomal
Menda, Aged about 48 years,
R/at Flat No.21B, Kingfisher Towers,
Kasturba Road Cross,
BENGALURU – 560 001.

(By Smt. Manasa B.Rao, Adv.)

- VS -

DEFENDANTS : **1. M/s. Srinivasa Trust,**
Principal Office at # 7/21,
1st Cross, 9th Main,
RMV Extension,
BENGALURU – 560 080.
Represented by its
Managing Trustee
Sri. D.A. Srinivas.

2. Kalpaja Dalavoi,
Aged about 57 years,
Trustee of M/s. Srinivasa Trust,
R/at No.87, Sai Keshav,
Opp. Sai Gardens,
Seegahalli,
BENGALURU – 560 067.

(By Sri. K.P. Shravan Madhav, Adv.)

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ORDER ON I.A. No.4

Advocate for defendants filed this IA under Order 7 Rules 11(a) & 11(d) of CPC with prayer to reject the plaint.

2. In the affidavit supporting the IA, it is contended that, plaintiff has filed this suit for permanent injunction restraining defendants or anybody acting on their behalf from interfering with peaceful possession & enjoyment of suit property by plaintiff. Defendant No.1 is public charitable trust. Plaintiff is having complete knowledge that Smt. D.A. Thejeshwari is the Trustee of the said Trust and executed agreement of sale dated 13.03.2023, which is the subject matter of O.S.1453/2024. For not impleading said Thejeshwari and other Trustees of defendant No.1, the suit is liable to be rejected for non-joinder of necessary & proper parties. The plaint is not verified in accordance with law. As per Order 6 Rule 1 CPC, plaintiff is required to plead & aver concise statement of material facts and such pleading must be verified in accordance with Rule 15 thereto. Averments of plaint have not been verified and plaintiff has not stated which pleading is to the knowledge of plaintiff and what she verifies upon the information received and believed to be true. Hence, plaint is liable to be rejected.

2(a). Plaintiff Smt. Ekta Kukreja filed the suit as Director of M/s. Anushka Constructions Pvt. Ltd. Plaintiff has not produced Board Resolution or authorization to file the suit. As per the cause title, it clearly indicates that the suit is filed by Anushka Constructions Pvt. Ltd., through Smt. Ekta Kukreja as Director of said Company. Hence, the suit filed without verifying the averments by authorized person to represent the Company is defective and it is liable to be rejected since it is barred by law. In O.S.1453/2024 filed by defendants against Smt. D.A. Thejeshwari for specific performance, the Court has granted interim order restraining D.A. Thejeshwari from alienating the suit property, despite which on 01.03.2024 plaintiff purchased suit property in violation of ex parte order of the Court passed on 26.02.2024 under the sale deed dated 13.03.2024. Hence, sale deed executed in violation of order of the Court is null & void and do not confer any right, title or interest under such deed. There is no cause of action to file the suit based on alleged possession of plaintiff over the suit property under sale deed dated 13.03.2024 since suit property is vacant land and possession follows title. Accordingly, plaintiff not being in possession, there is no cause of action to file the suit. Hence, plaint is liable to be rejected.

3. Advocate for plaintiff filed objections to the IA contending that, IA is not maintainable either in law or on facts. It is contended that, plaintiff is the absolute owner of the suit property having purchased same for valuable consideration under registered sale deed dated 13.03.2024 executed by previous owner Smt. D.A. Thejeshwari. Vendor delivered all the original documents of suit property to plaintiff and put plaintiff in possession of the suit property under registered sale deed. Revenue & BBMP records have been

mutated in the name of plaintiff and she is in lawful possession & enjoyment of the suit property by exercising all the rights of ownership. Plaintiff filed present suit for injunction against defendants when they tried to interfere with peaceful possession & enjoyment of plaintiff over the suit property. Plaintiff has not alleged any interference by Smt. D.A. Thejeshwari. As such, question of filing suit against her does not arise and she is not necessary party.

3(a). Smt. D.A. Thejeshwari filed IA No.3 under Order 1 Rule 10(2) CPC to come on record as defendant No.3. After hearing both side, the Court has dismissed said IA vide order dated 22.01.2025. Being aggrieved by the same, D.A. Thejeshwari filed W.P. No.4210/2025 before The Hon'ble High Court of Karnataka, which came to be dismissed on 24.03.2025 by confirming order of this Court holding that D.A. Thejeshwari is not necessary party. In spite of it, defendants have filed the present IA stating that the suit is liable to be rejected for non-joinder of D.A. Thejeshwari as necessary party. Order 7 Rule 11 CPC does not contemplate to reject the plaint where the pleadings were not verified as per Order 6 Rule 1 CPC. Said defects are all curable defects and the plaint cannot be rejected on the said grounds. Suit property belongs to plaintiff and not to the Company. Hence, there is no need to produce Board Resolution to file the suit. It is denied that sale deed dated 13.03.2024 is executed in violation of interim order dated 26.12.2024 in O.S.1453/2024. Smt. D.A. Thejeshwari executed registered sale deed dated 13.03.2024 after receiving full sale consideration from plaintiff having put her in possession of the property. Plaintiff is not party to O.S.1453/2024. When the interim order dated 26.12.2024 was passed, neither D.A. Thejeshwari nor defendants informed plaintiff

about filing of said suit and interim order passed in the said suit. Plaintiff is *bona fide* purchaser of suit property for valuable consideration without knowledge or notice of alleged unregistered transaction dated 13.03.2023 in favour of defendants or filing of the suit and interim order passed by the Court in the said suit. In any event, all those allegations are being enquired in Misc.576/2024. Plaintiff is in possession & enjoyment of the suit property based on registered sale deed and she is exercising her ownership. As such, it cannot be held that there is no cause of action to file the suit.

3(b). The present application is filed only to harass plaintiff and to drag the proceedings. The Hon'ble High Court of Karnataka in M.F.A. No.6603/2024 vide order dated 30.10.2024 directed to dispose the suit within one year. Only three months left to dispose both the suits. Instead of complying the said order and assisting the Court in disposing the suit within the stipulated time, defendants are filing applications one after another without any valid grounds. Hence, prays to reject the IA.

4. Heard arguments. Perused the material on record.

5. Now the points that arise for my consideration are : -

1. Whether IA No.4 filed by defendants under Order 7 Rules 11(a) & 11(d) of CPC deserves to be allowed ?

2. What Order ?

6. My answer to the above points are as under:

Point No.1 : In the **Negative**

Point No.2 : As per the final order,
for the following: -

REASONS

7. **POINT No.1** : - Plaintiff filed the suit for permanent injunction. It is the case of plaintiff that she purchased suit property under registered sale deed dated 13.03.2024 for valuable consideration of Rs.81.00 crore. As per the sale deed, plaintiff is put in possession & enjoyment of the suit property i.e., land measuring 4 acre 32 guntas in Sy.No.129/1c of Hoodi Village, K.R. Pura Hobli, Bengaluru East Taluk. In this IA, defendants have taken four contentions.

- i. Non-joinder of D.A. Thejeshwari as party to the suit;
- ii. plaint is not properly verified;
- iii. plaintiff has not produced Board Resolution authorizing her to file this suit;
- iv. Sale deed dated 13.03.2024 executed in favour of plaintiff is in violation of injunction order passed by the Court in O.S.1453/2024.

During the time of addressing arguments, both counsels submitted that in their office copy the verification is not appearing and on going through the original plaint submitted in the Court, there is verification and they have not addressed any arguments on this point.

8. Learned advocate for defendants argued that D.A. Thejeswhari is a Trustee and defendants are Trustees of public charitable trust. As such, non-inclusion of Trustees as parties to the suit is fatal to the case of plaintiff and prayed to reject the plaint. Further, on perusal of cause title of plaint, it reveals that plaintiff is shown as Director of Anushka Constructions Pvt. Ltd. Hence, she has not produced Board Resolution for filing the suit. On this ground also, plaint is liable to be rejected. Further argued that, sale deed on

which plaintiff is relying is executed by violating the injunction order passed in O.S.1453/2024. As such, plaintiff will not get any right, title or interest under such sale deed and prayed to reject the plaint. In support of his arguments, learned counsel has placed reliance on the following decisions:

- i. 2003 SCC Online HP 45 (*Apple Valley Resort v. H.P. State Electricity Board & Anr.*);
- ii. 1990 SCC OnLine Del. 65 (*Nibro Ltd., v. National Insurance Co. Ltd.*);
- iii. ILR 2021 KAR 3420 (*C. Krishnaiah Chetty & Sons Pvt. Ltd., Bengaluru v. Deepali Company Pvt. Ltd., Bengaluru, & Ors.*);
- iv. (2011) 11 SCC 524 (*State Bank of Travancore v. Kingstone Computers India Pvt. Ltd.*);
- v. (2012) 8 SCC 384 (*Vidur Impex & Traders Pvt. Ltd., & Ors., v. Tosh Apartments Pvt. Ltd., & Ors.*);
- vi. (2013) 5 SCC 397 (*Thomson Press (India) Ltd., v. Nanak Builders & Investors Pvt. Ltd., & Ors.*); and,
- vii. (2013) 14 SCC 689 (*Jehal Tanti & Ors., v. Nageshwar Singh (Dead) Through L.Rs.*)

I have gone through the said rulings.

9. Learned Senior Counsel appearing for plaintiff argued that earlier Smt. D.A. Thejeshwari filed application under Order 1 Rule 10 CPC for impleading her as party to the suit. Said IA came to be rejected by this Court which was challenged before the Hon'ble High Court in W.P.4210/2025. The Hon'ble High Court confirmed the order passed by this Court holding that D.A. Thejeshwari is not necessary party to the suit. Hence, on this ground, the Court cannot reject the plaint. Further, plaintiff filed the suit in her individual capacity and not on behalf of the Company. The said Company is a

confirming party to the sale deed and as such Board Resolution is not necessary. Further, it is argued that as per Section 52 of Transfer of Property Act, conveyance or transfer do not become void, but it render subservient to the rights of the parties to the litigation. As such, at this stage, Court cannot reject the plaint holding that sale deed is in violation of injunction order of the Court. The learned counsel further argued that rejection of plaint is a drastic step and only based on averments of plaint, if the Court comes to the conclusion that there is no cause of action or suit is barred by any law, under such exceptional circumstances plaint can be rejected. In this case, there are no grounds to reject the plaint. Hence, prayed to reject the IA.

10. Order 7 Rule 11 CPC reads thus:

11. Rejection of plaint.

The plaint shall be rejected in the following cases -

- (a) where it does not disclose a cause of action;
- (b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;
- (c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;
- (d) where the suit appears from the statement in the plaint to be barred by any law.

11. On perusal of Order 7 Rule 11(a) CPC, it reveals that, plaint can be rejected where the plaint do not disclose cause of action. This is a suit for injunction based on the registered sale deed

in favour of plaintiff. It is alleged that when defendants tried to interfere with peaceful possession & enjoyment of plaintiff over the suit property, plaintiff approached the Court seeking injunction against defendants. Further, another provision relied upon by defendants is Order 7 Rule 11(d) CPC. As per said provision, on plain reading of plaint, if it appears that it is barred by any law, under such circumstances Court can reject the plaint. Advocate for defendants has not stated specific law which bars the plaint. In the ruling relied upon by defendants reported in **(2013) 5 SCC 397** (*Thomson Press (India) Ltd., v. Nanak Builders & Investors Pvt. Ltd.*) The Hon'ble Apex Court has held thus:

It is well settled that the doctrine of lis pendens is a doctrine based on the ground that it is necessary for the administration of justice that the decision of a Court in a suit should be binding not only on the litigating parties but on those who derive title pendente lite. The provision of this Section does not indeed annul the conveyance or the transfer otherwise, but to render it subservient to the rights of the parties to a litigation.

Hence, at this stage, Court cannot hold that plaintiff has purchased the suit property in violation of ex parte interim order of the Court and the sale deed is void, without going for trial.

12. Further, The Hon'ble Apex Court in the ruling reported in **(2017) 13 SCC 174** (*Madanuri Sri Rama Chandra Murthy v. Syed Jalal*) has held thus:

7. The plaint can be rejected under Order 7 Rule 11 if conditions enumerated in the said provision are fulfilled. It is needless to observe that the power under Order 7 Rule 11 CPC can be exercised by the court at any stage of the suit. The relevant facts which need to be looked into for deciding the application are the averments of the plaint only. If on an entire

and meaningful reading of the plaint, it is found that the suit is manifestly vexatious and meritless in the sense of not disclosing any right to sue, the court should exercise power under Order 7 Rule 11 CPC. *Since the power conferred on the Court to terminate civil action at the threshold is drastic, the conditions enumerated under Order 7 Rule 11 CPC to the exercise of power of rejection of plaint have to be strictly adhered to.* The averments of the plaint have to be read as a whole to find out whether the averments disclose a cause of action or whether the suit is barred by any law. It is needless to observe that the question as to whether the suit is barred by any law, would always depend upon the facts and circumstances of each case. The averments in the written statement as well as the contentions of the defendant are wholly immaterial while considering the prayer of the defendant for rejection of the plaint. Even when the allegations made in the plaint are taken to be correct as a whole on their face value, if they show that the suit is barred by any law, or do not disclose cause of action, the application for rejection of plaint can be entertained and the power under Order 7 Rule 11 CPC can be exercised. ”

13. Plaintiff has filed present suit in her independent capacity. Plaintiff has not filed the suit on behalf of the Company, since Company is confirming party to the sale deed. Hence, plaint cannot be rejected holding that plaintiff has not produced the Board Resolution. On going through the material available on record, plaintiff has made out triable case. Defendants have not made out any grounds to invoke Order 7 Rules 11(a) & 11(d) CPC. Looking from any angle, the Court do not find any good grounds to hold that plaint is liable to be rejected. Under these circumstances, the IA is devoid of any merits. Accordingly, I answer **point No.1** in the **Negative**.

14. POINT No.2 : - In view of the aforesaid discussions, I proceed to pass the following : -

ORDER

I.A. No.4 filed by defendants under
Order 7 Rules 11(a) & 11(d) of CPC, is
rejected.

*Dictated to Senior Sheristedar (now under instructions to
continue the work as Stenographer Grade I) directly on computer,
computerized by him, revised, corrected by me and then pronounced
in the open Court on this the **20th day of August 2025.***

(B.P. DEVAMANE)
I Addl. City Civil And
Sessions Judge (CCH-02),
Bengaluru City.