

KABC010166332022



IN THE COURT OF XV ADDITIONAL CITY CIVIL & SESSIONS
JUDGE AT BENGALURU (CCH.NO.3)

Dated this 7th day of February 2026

OS No.4019/2022

Present :

Sri. SOMASHEKARA.A., B.A.L., LL.M,
XV Additional City Civil & Sessions
Judge, Bengaluru.

Plaintiff

- 1 Sri.A.M.Raghavendra
S/o M Muniswamy
Aged about 35 years,
- 2 A.M Ramya,
D/o M.Muniswamy
Aged about 33 years.
- 3 A.M Nandini
D/o M.Muniswamy
Aged about 29 years,

The plaintiff No. 1 to 3 is
R/at No. 140, Agara Village,
Venkateshwara Temple Main Road,
HSR Layout,
Bangalore -560 102

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V/s

Defendants

1 M.Muniswamy,
S/o. Late. Venkatappa,
Aged about 62 years,
R/at No. 140, Agara Village,
Venkateshwara Temple Main Road, HSR
Layout,
Bangalore -560 102.

2 Sri. S.A Ramesh,
S/o S Ashwathappa
Aged about 53 years,

3 Smt. Nagaveni,
W/o. S.R.Ramesh,
Aged about 45 years,

Defendant No. 2 and 3 are R/at no. 1837,
Ward No.2, Devarajanagar,
Doddaballapura.

4 Y.H Kalegowda
S/o Late Hanumaiah
Aged about 75 years,

5 Smt. H.M Vinutha
W/o Kalegowda
Aged about 70 years,

The defendant No. 4 & 5 Are R/at No.125,
2nd Main Road, Parvathipuram, V.V
Puram, Bangalore - 560 004.

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ORDERS ON I.A.No.II

Plaintiff	1	Sri.A.M.Raghavendra and others
		V/s
Defendant		M.Muniswamy and others

ORDERS ON I.A.No.II

The Defendant Nos.2 and 3 have filed the present application under Order VII Rule 11 r/w Section 151 of the Code of Civil Procedure, 1908, seeking rejection of plaint filed by the plaintiffs.

2. In support of the application, the SPA holder of defendant No.2 and 3 has filed his sworn affidavit stating that, the suit is filed for partition against the defendants and plaintiffs are the children of Defendant No.1. In the plaint prayer (b) the plaintiffs have sought a declaration that the sale deed executed by Defendant No.1 in favour of Defendant Nos.2 & 3 in respect of Item No.2 is not binding on the plaintiffs. That except prayer (b), there are no substantial claims against Defendant Nos.2 & 3. That Item No.2 of the suit schedule property does not come within the territorial jurisdiction of this Court.

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That the property bearing Item No.2 was sold under a registered sale deed dated 29.12.2004 in favour of Defendant Nos.2 & 3 and registered before the Sub-Registrar, Doddaballapur.

3. It is further stated that, the plaintiffs have mentioned wrong particulars relating to the sale deed date and registration/document number in the plaint, allegedly to mislead the Court. The plaintiffs' contention that Item No.2 was sold without their knowledge is false and that Plaintiff No.1 had knowledge of the sale deed and was a witness to the said document. That from 2004 till 2022, for about 18 years, neither Defendant No.1 nor any person claiming under him (including plaintiffs) raised any dispute and hence the suit is barred and not maintainable. The plaintiffs and Defendant No.1 reside at the same address, and despite that summons are not served on Defendant No.1, showing collusion between the plaintiffs and Defendant No.1 to harass Defendant Nos.2 & 3. That plaintiffs have no locus standi, Therefore, suit is barred by limitation, and this Court has no jurisdiction to try the suit so far as Item No.2 is concerned. Therefore, Defendant Nos.2 & 3 prays to reject the plaint.

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4. On the other hand, the plaintiffs have filed objections to the said application contending that the application filed by Defendant Nos.2 & 3 is not maintainable either in law or on facts and is liable to be dismissed. Plaintiffs have stated that the suit is filed seeking partition and other consequential reliefs, hence the suit cannot be rejected at threshold. The contention that except prayer (b) there is no claim against Defendant Nos.2 & 3 is false. Defendant Nos.2 & 3 are parties to the suit since the alienation is questioned and their presence is necessary for adjudication. The contention of the applicants that Item No.2 is beyond jurisdiction is denied. Plaintiffs submit that the suit includes Item No.1 property situated in Bengaluru, hence the suit is maintainable before this Court. Plaintiffs contend that the defendants themselves admit the sale transaction, and the alleged difference in date/document particulars is at best a matter for trial and cannot be a ground for rejection of plaint. Plaintiffs contend that the applicants themselves admit that the plaintiffs were not parties to the sale deed and therefore the contention about Plaintiff No.1 being witness etc., is disputed and requires evidence. Plaintiffs deny the allegations of delay, limitation and collusion and contend that the question of entitlement, shares and binding nature of sale deed

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requires full-fledged trial. Plaintiffs contend that Order VII Rule 11 CPC does not apply in the facts and circumstances of the case. Hence they pray to dismiss the application with costs.

5. Heard, perused the materials on record. The following points that would arise for my determination;

1. Whether the plaint is liable to be rejected under Order VII Rule 11 CPC on the ground that the suit is barred by law of limitation?
2. Whether the plaint is liable to be rejected under Order VII Rule 11 CPC on the ground of lack of territorial jurisdiction in respect of Item No.2 of the suit schedule property?
3. Whether the plaint discloses a cause of action against Defendant Nos.2 & 3, and whether the plaint is otherwise liable for rejection under Order VII Rule 11 CPC?
4. What order?

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

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

Point No.2: **in the Negative**

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Point No.3: **in the Negative**

Point No.4: As per the final order for the following;

REASONS

7. **Point No.1 to 3 :** As could be seen from the record it appears that, the plaintiffs have filed this suit seeking partition and separate possession in respect of the suit schedule properties. The plaintiffs contend that they are children of Defendant No.1 and that the suit properties are liable for partition, and further sought the relief that the sale deed executed by Defendant No.1 in favour of Defendant Nos.2 & 3 in respect of Item No.2 is not binding on them.

8. In pursuance of the suit summons, the defendant Nos.2 and 3 have appeared through the SPA holder and filed the present application Under Order VII Rule 11 of CPC to reject the plaint.

9. At the outset, it is necessary to note that while deciding an application under Order VII Rule 11 CPC, the Court must primarily look into the averments in the plaint and the documents relied upon by the plaintiff, and not the defence set up by the defendants. The scope of Order VII Rule 11 CPC is limited, and rejection of plaint is

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permissible only when the case clearly falls under the clauses of Order VII Rule 11 CPC. The applicants contend that the sale deed in respect of Item No.2 is of the year 2004, and the suit is filed only in the year 2022, after a gap of about 18 years, hence the suit is barred by limitation and therefore plaint deserves rejection.

10. In the present case, the plaint seeks partition and also questions the binding nature of a sale deed executed by Defendant No.1 in favour of Defendant Nos.2 & 3. The plaintiffs contend that the suit properties are ancestral and that they are entitled for partition. They also contend that the alienation is not binding. Even if the defendants contend that Plaintiff No.1 was witness to the sale deed and had knowledge, the same is not something that can be conclusively adjudicated at this stage under Order VII Rule 11 CPC as it requires appreciation of evidence. Therefore, this Court is of the opinion that it cannot be said, at this stage, that from the plaint averments alone the suit is barred by limitation so as to reject the plaint.

11. Defendant Nos.2 & 3 contend that Item No.2 does not fall within the territorial jurisdiction of this Court and therefore the plaint is

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liable to be rejected. On the other hand, the plaintiffs have specifically contended in their objection that the suit is for partition in respect of multiple suit schedule items, and Item No.1 is situated within Bengaluru, therefore this Court has jurisdiction.

12. At this stage, this Court has to consider whether on the face of plaint it can be said that the Court lacks jurisdiction. Merely because one of the properties is situated outside the jurisdiction, it cannot automatically lead to rejection of the plaint, particularly when the suit is for partition and other properties are alleged to be within jurisdiction and when the cause of action is pleaded. Territorial jurisdiction objections are also generally matters that can be decided after proper framing of issues and hearing, and if required, the appropriate order could be return of plaint under Order VII Rule 10 CPC, but rejection under Order VII Rule 11 CPC is not to be resorted to unless it clearly comes within the scope. Therefore, the contention of Defendant Nos.2 & 3 that the plaint has to be rejected solely on the said ground cannot be accepted at this stage.

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13. The applicants contend that except prayer (b), no claim has been made against Defendant Nos.2 & 3. It is to be noted that the plaintiffs have sought relief of partition and consequential relief of declaration that the sale deed executed in favour of Defendant Nos.2 & 3 is not binding. This itself shows that Defendant Nos.2 & 3 are necessary parties, since the relief sought directly affects their interest in Item No.2. Further, the question whether Item No.2 is self-acquired property of Defendant No.1 or ancestral/joint family property is a matter of trial.

14. The plaintiffs allege entitlement and claim share, defendants dispute it. Such disputed questions cannot be decided in an application under Order VII Rule 11 CPC. The defendants have also urged that plaintiffs intentionally stated wrong registration date/document number to mislead the Court. Even assuming there is discrepancy in mention of document particulars, the same cannot be treated as a ground for rejection of plaint under Order VII Rule 11 CPC. Such issues can be clarified during trial and proper evidence can be led. Hence, it cannot be held that plaint does not disclose cause of action. The plaint clearly discloses the relationship between

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parties, property dispute, and the relief of partition along with challenge to alienation. *Accordingly, I answer Point Nos.1 to 3 are in the Negative.*

15. **Point No.4:** For the aforesaid reasons, the application filed by Defendant Nos.2 & 3 under Order VII Rule 11 r/w Section 151 CPC does not merit consideration at this stage. The contentions raised by Defendant Nos.2 & 3 relate to disputed questions of fact and law which require full-fledged trial. For the foregoing reasons, I proceed to pass the following;

ORDER

I.A. No. II filed by Defendant Nos.2 & 3
under Order VII Rule 11 r/w Section 151 of CPC
is hereby dismissed.

No order as to costs.

(Dictated to the typist, typed by him in the Open Court, corrected and then initialed by me and pronounced by me in the open court on the 7th day of February 2026)

(SOMASHEKARA.A)
XV Addl. City Civil and Sessions Judge,
Bengaluru.

Judge Sign

