

KABC010253672023



**IN THE COURT OF I ADDITIONAL CITY CIVIL &
SESSIONS JUDGE AT BENGALURU (CCH.No.2)**

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

Dated this the 15th day of November 2024.

O.S. No.6067 / 2023

PLAINTIFF:- Sri.B.L.Veerabadhre Gowda,
Aged 87 years,
S/o. Late Lakkanna Gowda,
R/at No.492C, 7th Block West,
Jayanagar, Bengaluru-560 082.

(By Sri.B.N.Ananthanarayana, Adv.)

- VS -

DEFENDANTS:-

- 1. Sri.C.M.Ramanujan,**
S/o. Late Sri.C.M.Shyam Iyengar,
Aged about 90 years,
R/at No.2, Mills Quarters,
Malleshwaram, Bengaluru-560 003.
- 2. Sri.Lokesh K,**
S/o. Sri.G.Kenchaiyah,
Aged about 39 years,
R/at No.26/A, Papaya Garden,
4th Cross, BSK 3rd Stage,
Bengaluru-560 085.

3. Sri.N.Venkatesh,
S/o. Late Nagalingaiah
Aged about 58 years,
R/at 3rd Main Road, 2nd Cross,
Kattriguppa East, BSK 3rd Stage,
Bengaluru-560 085.

(By Sri.Venkatesh Prasad R, Adv.)

ORDER ON I.A.No.3

Advocate for the defendants filed IA No.3 under Order 7 Rule 11 r/w Sec.151 of CPC with prayer to reject the plaint.

2. In the affidavit supporting I.A.No.3, it is contended that, the plaintiff has filed this suit against the defendants seeking permanent injunction and consequential reliefs alleging that, the defendants are interfering with his peaceful possession and enjoyment of the suit schedule property. The plaintiff has failed to narrate the true facts before the Court. The suit has been filed only with an intention to harass and to extract money from the defendants illegally. The cause of action pleaded by the plaintiff is imaginary and created one, hence, the suit is not maintainable. The plaintiff has not valued the suit properly. The plaint averments are barred under Order 7 Rule 11 of CPC. The plaintiff has not approached the Court with clean hands. If this application is allowed and plaint is rejected, no hardship or injury would be caused to the plaintiff, on the other hand, if the application is not allowed, the defendants will be put to hardship and injury. Hence, the defendants pray to allow IA No.3 and reject the plaint.

3. The plaintiff filed objections to the IA No.3 contending that, the defendants have filed this application on imaginary grounds without having an iota of paper in respect of the suit schedule property in their favour. The plaintiff filed the present suit against the defendants seeking the relief of permanent injunction and consequential reliefs stating that, the defendants are interfering with his possession and enjoyment of the suit schedule property is true and correct. It is denied that, the plaintiff has failed to value the suit properly. The plaintiff has filed this suit for permanent injunction restraining the defendants from interfering with the plaintiff's peaceful possession and enjoyment over the suit schedule property. The plaintiff has rightly valued the suit under Sec.26(3) of the Court Fees and Suit Valuation Act. Hence, the application is liable to be rejected. The defendants are trying to interfere with the plaintiff's peaceful possession and enjoyment of the suit property. Therefore, the plaintiff has filed this suit for permanent injunction against the defendants, hence, the suit of the plaintiff is maintainable. There are no grounds for rejection of the plaint, hence, prayed to reject IA No.3.

4. Heard the arguments from both the sides. Perused the materials on record.

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

1. Whether I.A.No.3 filed by the defendants under Order 7 Rule 11 r/w Sec.151 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:-** It is the specific case of the plaintiff that, he purchased the suit schedule property along with 17 sites under the registered sale deed dated 22.09.1971. The suit schedule property is Site bearing Municipal No.6, Formed in Sy.No.6/1 of Kathriguppe Village, Uttarahalli Hobli, Bengaluru South Taluk, situated at 4th and 5th A Main Road, Kathriguppe, Bengaluru, in Ward No.54, Srinivas Nagar, Bengaluru, measuring east to west 30 feet and north to south 80 feet. Khatha of the suit schedule property stands in the name of the plaintiff and he is paying tax to the concerned authority. There was old construction on the suit schedule property. In order to put up new construction, the plaintiff has demolished the old construction and got sanctioned plan from BBMP and when he was trying to put up construction, the defendants are trying to interfere with the plaintiff's peaceful possession and enjoyment of the suit schedule property.

8. The provisions of Order 7 Rule 11 reads as under:

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;

(e) where it is not filed in duplicate;

(f) where the plaintiff fails to comply with the provisions of rule 9:

[Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.

9. The defendants have filed this IA under Order 7 Rule 11 of CPC without mentioning the specific sub-rule. The defendants have also not mentioned any specific ground as narrated above for rejection of plaint. On perusal of the entire plaint averments, it do not attract any of the above provisions of law. It is well settled principle of law that, plaint can be rejected only based on the averments of the plaint and not any contentions taken in the written statement or in the IA. On careful perusal of the plaint, this Court finds no grounds to reject the plaint.

10. On perusal of the IA No.3, it is simply stated that, the plaint is liable to be rejected under Order 7 Rule 11 of CPC. IA do not disclose under which provision of Order 7 Rule 11 of CPC, the plaint is liable to be rejected. One of the contentions stated in the IA is that, the suit is not properly valued. The plaintiff has filed this suit for the relief of injunction in respect of the suit schedule property and he has paid the Court fee under Sec.26(c) of the Karnataka Court Fees and Suit Valuation Act. On going through the plaint averments and material available before the Court, it shows that, the defendants have simply filed this IA with bald allegations and there are no any specific grounds or allegations to hold that, the plaint is liable to be

rejected under any of the provisions of Order 7 Rule 11 of CPC. The plaintiff has produced the certified copy of the sale deed, khatha certificate, tax paid receipt and other documents to prove his ownership and possession in respect of the suit schedule property. Looking from the available materials before the Court, there are no good grounds reject the plaint. Accordingly, I answer **point No.1 is in the Negative.**

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

ORDER

**I.A.No.3 filed by the defendants under
Order 7 Rule 11 r/w Sec.151 of CPC, is
rejected.**

(Dictated to the Stenographer-III, transcribed and typed by her, corrected and then pronounced by me in the open court on this the **15th day of November, 2024**)

(B.P.Devamane)
I Addl. City Civil & Sessions Judge,
Bengaluru.