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**IN THE COURT OF SENIOR CIVIL JUDGE,
BAILHONGAL, AT: BAILHONGAL**

PRESENT:

**Shri. Ravi Babu Chawan,
B.A. LL.B.,
Senior Civil Judge, Bailhongal.**

O.S. No.109/2021

Dated this 19th Day of November, 2025

Sri. Kubendra S/o Bhimarayappa Sopin,

.....Plaintiff

(By Sri. S.B.L., Advocate)

Vs.

1) Sri. Rudrappa S/o Bhimarayappa Sopin,
and others

.....Defendants

(By Shri. B.R.A., Advocate for D1, D10 and D11)

(By Shri. V.B.A., Advocate for D8 & D13)

(By Shri. I.B.L., Advocate for D9 & D15)

(D2 to D16, D12, D14, D17: Exparte)

(By Shri. M.M.S., Advocate for D16, D19 to D25)

PARTIES TO IA No.VI

1) Smt. Fakirawwa W/o Muneppa Patil and others

**.....Applicants/Defendant
Nos.19 to 25)**

(By Sri. M.M.S., Advocate)

-Vs.-

Sri. Kubendra S/o Bhimarayappa Sopin,

.....Opponents/Plaintiffs

(By Sri. S.B.L.,) Advocate)

I	Provision under which the application is filed	U/o 7 Rule-11 of 151 of CPC
ii	Relief sought for	Praying to reject the plaint.
iii	The date on which the application is filed	16-10-2024
iv	Number of the application	IA No.VI
v	The date on which the objections are filed by the opponent	06-01-2025
vi	The date on which the orders were passed on the said application	19-11-2025

ORDERS ON IA No.VI

The defendant Nos.19 to 25 have filed the present application under Order VII Rule 11 of C.P.C., seeking rejection of plaint, contending that RTC in respect of property at Sl.No.10 bearing RS No.201/5 measuring 2 acres 21 guntas has already been mutated in execution of the judgment and decree passed in O.S. No.132/2006 on the file of Hon'ble Civil Judge, Kittur.

2. In the accompanying affidavit filed in support of the application, it is stated that the plaintiff has suppressed the said material facts and has wrongly included RS No.201/5 in the schedule of the present suit. According to the applicants, the plaintiff had entered appearance in O.S. No.132/2006 by filing the Vakalath and has not preferred any appeal, revision or other proceedings challenging the decree therein, and therefore, the principle of resjudicata clearly attracted. It is further contended that, the plaintiff has not amended the plaint despite change of RTC extracts and hence the plaint is liable to be rejected.

3. On the other hand, the plaintiff has filed objection contending that, the present application is not

maintainable either in law or on facts. It is specifically contended that, though the defendants have filed written statement, they have not whispered anything regarding resjudicata in their pleadings and therefore the pleading cannot be now be raised in an application under Order VII Rule 11 of C.P.C. Further the plaintiff denies that the RTC in respect of R.S. No.201/5 to an extent of 1 acre 19 guntas has come to 'durasti' pursuant to execution in O.S. No.132/2006. The plaintiff further contends that, he has never appeared in O.S. No.132/2006 and that his signature was obtained by misrepresentation. He asserts that, he was not aware of the said proceedings and therefore the question of filing any appeal or review does not arise. He also contends that, the principle of resjudicata cannot be invoked against the defendant Nos.19 to 25 in the facts of the present case. On this grounds, the plaintiff seeks dismissal of the application.

4. Heard both sides. Perused the pleadings and materials on record.

5. In view of the above, the following points would arise for my consideration.

Point No.1) Whether the defendant Nos.19 to 25 made out sufficient grounds for rejection of plaint?

Point No.2) What order?

6. My findings to the aforesaid points are as under;
- Point No.1 : In the negative,
- Point No.2 : As per final order for the following;

REASONS

7. **Point No.1:-** The records disclose that, the present suit is filed for partition and separate possession in respect of the suit properties described as Item Nos.1 to 23 of Schedule-A, Item Nos.1 to 9 of Schedule-B, and Item Nos.1 to 3 of Schedule-C and for declaration that the sale of R.S. No.35/1 and R.S. No.35/3 by defendant No.1 in favour of defendant Nos.16 and 17 is not binding on the plaintiff.

8. On careful examination of the averments in the plaint shows that, the cause of action pleaded by the plaintiff is based on joint family status and his claimed for partition of several properties. Whether R.S. No.201/5 was subject matter of O.S. No.132/2006, whether the

plaintiff was a party to the said proceedings, and whether the decree in that suit operates as resjudicata are all mixed question of fact and laws, which cannot be decided merely on the basis of the defendants' assertions in an application under Order VII Rule 11 of C.P.C. At this stage, the Court is required to look only at the plaint averments and not at dispute external facts.

9. The plaintiff has categorically denied participation in O.S. No.132/2006 and has alleged on the misrepresentation in obtaining his signature, these are matters requiring evidence. Further, the plea resjudicata not having been raised in the written statement, cannot be invoked in an Order VII Rule 11 of application to summarily reject the plaint.

10. Order VII Rule 11 of C.P.C., can be applied only when the plaint itself, on its face, does not disclose a cause of action or when the suit is barred under any law from the statement contained in the plaint alone. The present plaint discloses a cause of action for partition and declaration. The bar of resjudicata is not apparent on the face of plaint. Therefore, the plaintiff's suit cannot be

rejected at this preliminary stage. Accordingly, point No.1 is answered in the ***Negative***.

11. **Point No.2:-** In view of the above findings and discussion made on point No.1, I proceed to pass the following;

ORDER

I.A.No.VI filed by the defendant
Nos.19 to 25 under Order VII Rule 11 of
C.P.C., is hereby rejected.

No order as to cost.

(Dictated to the stenographer, transcribed and typed by him on computer system, corrected, revised then signed by me and pronounced in the open Court on this the 19th Day of November 2025)

(Ravi Babu Chawan)
Senior Civil Judge, Bailhongal.

