

**IN THE COURT OF THE CIVIL JUDGE & JMFC, SANDUR**

**PRESENT**

Sri. Md. Shaiz Chouthai, B.A.,LL.B. (Hons.), LL.M,(M.L.)

Civil Judge & JMFC, Sandur

**Dated: 6<sup>th</sup> day of July, 2026**

**O.S. No.67/2023**

**Plaintiff/s** : A.G. Pankaja W/o Shivamurthy,  
Aged about 50 years,  
R/o Benakal village,  
Hagaribommanahalli Taluk,  
Vijayanagara District.

***(By Sri. N.K.S., Advocate)***

**V/s**

**Defendant/s** : 1. Smt. K. Shobharani S/o A.G. Channappa,  
Aged about 45 years,  
Occ: Asst. Teacher,  
Gov. Junior Primary School,  
R/o Bandri village,  
Harapanahalli Taluk,  
Vijayanagara District.

2. Smt. K.Veena W/o Revenagouda,  
Aged about 42 years, Occ: Housewife,  
R/o Huruliyalu village,  
Kudligi Taluk, Vijayanagara District.

3. K. Gurulingamurthy S/o Late Mokshadara,  
Aged about 40 years,  
Occ; Engineer,

R/o Gurukrupa Nilaya,  
Sunagarageri village,  
Harapanahalli Taluk,  
Vijayanagara District.

4. A. Sindhu W/o Revanasiddappa,  
Aged about 34 years,  
Occ: Asst. Teacher,  
R/o Hirehegadlu village,  
Kudligi Taluk, Vijayanagara District.
5. A.G. Raviraj S/o P. Shambulingappa,  
Aged about 69 years,  
Occ; Retired police,  
R/o M.P.Prakash Nagar,  
Sahi colony, Veerabhadreshwara nilaya,  
Hosapete Town,  
Hosapete Taluk, Vijayanagara District.
6. A.G. Channappa S/o Shambulingappa,  
Aged about 55 years, Occ; Asst. Teacher,  
R/o Door No.457, ward No.12,  
Kashi Sangameshwar Badavane,  
Hadagali road, Harapanahalli Town,  
Harapanahalli Taluk, Vijayanagara District.

*(D-1 By Sri. N.G.K., Advocate)*

*(D-2 Dead)*

*(D-3 & D-4 Placed Exparte)*

*(D-5 By Sri. K.M., Advocate)*

*(D-6 By Sri. H.K.S., Advocate)*

**I.A. NO. VI**

**Applicant/s** : Smt. K. Shobharani S/o A.G. Channappa  
(Defendant No.1)

V/s

**Opponent/s** : A.G. Pankaja W/o Shivamurthy  
(Plaintiff)

**ORDER ON I.A. NO.VI FILED BY DEFENDANT No.1 UNDER  
ORDER VII RULE 11(A) AND (D) R/W SEC. 151 OF C.P.C.**

The instant application is filed by the defendant No.1 under Order VII Rule 11(A) and (D) R/w Sec. 151 of C.P.C. seeking rejection of plaint. The application is filed on 11.12.2025 when the matter was posted for further chief-examination of PW1.

2. The defendant No.1 contended that the plaintiff has filed false and vexatious suit against the defendants. The suit properties admittedly were earlier standing in the name of Gudihindala Kotramma W/o Sannaveerappa as owner. During her lifetime, she sold the suit properties bearing land Sy.No.732 and 733 measuring 2.45 and 2.52 acres respectively in favour of her granddaughter Smt. K. Nirmala @ Gowramma W/o Mokshadatha through Regd. Sale deed No. 3/1990-91 Dt: 05.04.1990, which was followed by mutation of her name in the property records. On

the basis of sale deed Smt. K. Nirmala @ Gowramma became absolute owner of the said properties.

3. After the demise of Smt. K. Nirmala @ Gowramma in the year 2014, her children i.e., defendant no.1 to 3 succeeded to the suit properties and other house properties and their names got mutated in the revenue records. Later, as per family understanding, the defendant no.2 and 3 relinquished their rights in the suit properties and house properties in favor of defendant no.1. The defendant no.1 constructed new house in the said place which is within the knowledge of plaintiff. The defendants are in possession and enjoyment of suit properties.

4. In spite of having complete knowledge about the above facts the plaintiff has instituted this suit after 33 years after the execution of Regd. Sale deed Dt: 05.04.1990 in favor of Smt. K. Nirmala @ Gowramma. The sale deed is not challenged during the lifetime of Smt. K. Nirmala @ Gowramma. As a result, the suit is barred by law and liable to be rejected for want of cause of

action. On these grounds the plaint is liable to be rejected for want of cause of action and barred by law.

5. The plaintiff has filed objections to the application and contended that the defendant No.1 has not given any cogent reasons for rejection of plaint. This suit is instituted for the relief of partition and separate possession claiming that the suit properties are ancestral and joint family properties of plaintiff and defendants. Whether the plaintiff is in possession or not has to be decided during the trial. Further, to decide the nature of suit properties it requires trial and documentary evidence. Similarly, the plaintiff has clearly mentioned the cause of action to institute the suit in para no.8 of the plaint. This suit is filed well within the limitation period. Moreover, the plaintiff having filed this suit claiming joint possession with defendants there is no limitation to institute suit for partition and separate possession. On these grounds, she prays to dismiss the suit.

6. Heard both learned counsel for plaintiff and defendant No.1 on I.A. No. VI. Perused the records and order sheet.

7. The following points arise for consideration:

- 1) Whether there are grounds to reject the plaint ?
- 2) What order?

8. The answer to the above points are as under:

**Point No.1:** In the Affirmative  
**Point No.2:** As per the final order  
for the following:

### **REASONS**

9. **POINT NO.1** : The applicant / defendant No.1 sought to reject the plaint on the ground that it does not disclose any cause of action and the suit is barred by law of limitation.

10. The powers conferred on the court to reject the plaint under Order VII Rule 11 of CPC is a drastic power to terminate a civil action at the threshold. In view of Order VII Rule 11(a) of CPC, the court has to satisfy that the plaint disclose a cause of action. Every plaint which is filed before the court must meet the

requisite standards. If the requisite standards under Order VII Rule 11 of CPC is not met, it suffers rejection.

11. It is trite that in order to consider an application under Order VII Rule 11 of CPC, the court has to scrutinize the averments and pleas made in the plaint. At that stage, case of the defendants in the written statement are wholly irrelevant as the application for rejection of the plaint has to be decided only on the averments of the plaint. At the most, the court may rely upon the documents filed by the plaintiffs while deciding the application of present nature.

12. With the above settled principles if the averments made in the application is read and understood, the applicant / defendant No.1 sought to reject the plaint mainly on three grounds. *First*, the plaint do not disclose the cause of action to institute suit. *Second*, the suit of the plaintiff is barred by law of limitation.

13. The ground urged by the applicant is that the suit is barred by limitation. The Hon'ble High Court of Karnataka in ***Narasimha Murthy and Others Vs. Mallesh and Others (RFA No.862/2023 Dt. 22.04.2026)*** has observed as under:

“21.1. The Supreme Court in ***Dahiben*** case has further held that where a suit appears from the averments of the plaint, to be barred by law, it shall be rejected in terms of Order VII, Rule 11(d) of CPC. Thus, a suit which is barred by limitation would also come within this definition.”

14. Therefore, in view of the observations made by Hon'ble High Court of Karnataka in the above decision, where the plaint discloses that the reliefs sought is barred by limitation, the plaint can be rejected as barred by law. It is also trite that a plaint cannot be rejected on the ground of limitation unless the suit is *ex-facie* barred by the law of limitation and the plaintiffs failed to disclose a definite right for clear cause of action owing to vague, inconsistent and contradictory pleadings or documents. The

ancillary relief of partition, being contingent upon the time barred relief of declaration is equally unsustainable.

15. On perusal of the plaint averments, it is averred that the suit properties were earlier standing in the name of Sanna Veerappa which was inherited by his wife Gudihindala Kotramma W/o Sannaveerappa who sold the properties to her granddaughter Late K Nermala through Regd. Sale deed No. 3/1990-91 Dt: 05.04.1990.

16. The plaintiff has not contended that Gudihindala Kotramma W/o Sannaveerappa executed the above sale deed without her knowledge or consent. She also did not state when she learnt about the execution of above sale deed. According to plaintiff, the cause of action to institute the suit arose to her first on the date of execution of sale deed Dt: 05.04.1990 and on 22.12.2022 when she issued notice to defendants seeking share in the suit properties.

17. The plaintiff has deliberately suppressed when she came to know about the execution of sale deed in favour of K Nirmala. It is trite that the plaint can either be rejected as a whole or not at all. Similarly, the plaint cannot be rejected against one of the defendants and retain the plaint against other defendant. The plaint cannot be rejected in part on the ground that it does not disclose a cause of action against one of the defendants. However, in the instant suit the relief of partition and separate possession depends upon the validity of the sale deed Dt: 05.04.1990 and capacity of Gudihindala Kotramma W/o Sannaveerappa to sell the land to Late K Nirmala. At the same time, the challenge to the validity of the sale deed is subject to law of limitation. If the suit appears to be manifestly barred by limitation for the relief of declaration to declare the sale deed as null and void, the relief of partition and separate possession cannot be granted. Therefore, it has to be seen whether challenge to sale deed Dt. 05.04.1990 is made within prescribed limitation.

18. The similar question arose before the Hon'ble High Court of Karnataka in *Narasimha Murthy and Others Vs. Mallesh and Others* (RFA No.862/2023 Dt. 22.04.2026), wherein a suit for partition and separate possession and to declare the sale deeds executed on 30.05.1980 and two release deeds Dt. 04.12.2020 are not binding on the plaintiffs, was filed before the Trial Court. In the said matter, the trial court had rejected the plaint for want of cause of action and the suit having barred by limitation by referring to limitation prescribed under Sec.58 and 59 of Limitation Act. The below is the extract of relevant portion of the judgment:

“23. The plaintiff has filed a suit seeking partition for a declaration with respect to three Sale Deeds all dated 30.05.1980 and two Release Deeds both dated 04.12.2020, that they are not binding on the appellants/plaintiffs and for mesne profits. Article 58 of the Limitation Act provides for the limitation for a suit for declaration and states that the limitation for such a suit is when the right to sue first accrues. Article 59 to the Schedule to the Limitation Act

provides that to cancel or set-aside an instrument, the period of limitation is three years, when the facts entitling the plaintiff to have the instrument set-aside first becomes known to him. Articles 58 and 59 of the Limitation Act are extracted below:

| <i>Description of suit</i>                                                                    | <i>Period of limitation</i> | <i>Time from which period beings to run</i>                                                                                                            |
|-----------------------------------------------------------------------------------------------|-----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>58. To obtain any other declaration</i>                                                    | <i>Three years</i>          | <i>When the right to sue first accrues.</i>                                                                                                            |
| <i>59. To cancel to set-aside an instrument or decree or for the rescission of a contract</i> | <i>Three years</i>          | <i>When the facts entitling the plaintiff to have instrument or decree cancelled or set-aside or the contract rescinded first become known to him”</i> |

24. As stated above, the appellants/plaintiffs have averred in the plaint that the ‘cause of action’ has arisen on 18.12.2021 and thus the suit is within limitation. However, from the documents annexed with the plaint, more specifically, Schedule E to the Release Deed, it can be seen that there is a Sale Deed executed and registered in the year 1944 by the predecessor-in-interest in title of the appellants/plaintiffs and thereafter several Sale deeds have been executed. Thus, the title to the suit schedule property

stood transferred in the year 1944 itself by the predecessor-in-interest of the appellants/plaintiffs by virtue of a registered instrument.

19. In the instant case, the title to the plaint schedule property stood transferred to the mother of defendant no.1 to 3 i.e., Late K.Nirmala on 05.04.1990, by virtue of registered sale deed. The challenge to the said sale deed by instituting the present suit in the year 2023 is barred by limitation as it is hit by Art.58 of Limitation Act.

20. On going through the entire contents of the plaint, this court do not find a cause of action that has accrued to the plaintiff to institute the present suit and the suit is apparently barred by limitation. The plaintiffs tried to create an illusory cause of action by merely stating that the sale is not binding on her. The plaintiff further tried to avoid the clutches of law of limitation by not specifically seeking the relief that the sale deed Dt: 05.04.1990 is not binding on her share. Since the entire plaint averments revolve around challenge to sale deed Dt:05.04.1990, the suit

appears to be barred by limitation. Consequently, there are certainly grounds to reject the plaint under Order VII Rule 11(a) and (d) of CPC. Thus, this court answers Point No.1 in the **Affirmative.**

21. **POINT NO.2:** For the above said reasons, this court proceeds to pass the following:

**ORDER**

The plaint is hereby rejected under Order VII  
Rule 11(a) and (d) of CPC.

*(Dictated to the stenographer, computerized by him, corrected by me and then pronounced in the open Court, on this the 6<sup>th</sup> day of July - 2026).*

**(Md. Shaiz Chouthai)**  
Civil Judge & JMFC, Sandur.