

IN THE COURT OF CIVIL JUDGE & J.M.F.C.,
AT SANDUR.

Present : Md. Shaiz Chouthai,

B.A.,LL.B. (Hons.), LL.M,(M.L.)

Civil Judge & JMFC, Sandur.

Dated: 6th day of February, 2026

O.S. No. 124/2022

Plaintiff/s : Saduvanna S/o Late Hanumanthappa,
Aged about 55 years,
Agriculturist,
R/o Yaradammanahalli village,
Sandur Taluk, Ballari District.

(By Sri. B.V.K., Advocate)

V/S

Defendant/s : Thippeswamy S/o Late Hanumanthappa,
and Others.

(D-1 & 7 By Sri. G.M., Advocate)

(D-4 to 6 By Sri. H.K., Advocate)

(D-8 By Sri. Y.R.R., Advocate)

(D-2, 3 & 9 – Exparte)

I.A. NO. IX

Applicant : JSW Renewable Energy Ltd.
Reptd. Sidagond Kalagond,
(Defendant No.8)

V/s

Opponents : Saduvanna S/o Late Hanumanthappa
(Plaintiff)

ORDER ON I.A. NO. IX FILED UNDER ORDER VI RULE 16 R/W
SEC. 151 OF C.P.C.

1. The instant application is filed by defendant No.8 under Order VI Rule 16 R/w Sec. 151 of C.P.C. seeking to strike out the plaint in part against defendant No.8. The application is filed on 12.02.2025 when the matter was posted for hearing on other interim applications.

2. It is contended that the suit of the plaintiff against defendant No.8 is not maintainable. The suit filed by the plaintiff against defendant No.1 to 7 is for the relief of partition and separate possession along with prayer for injunction against defendant No.8 restraining him from alienating the plaint schedule item No.1 property. According to the applicant, the plaintiff and defendant No.1 to 7 by colluding with each other have filed this suit to defeat the unfettered rights of defendant No.8.

3. It is submitted that the plaintiff and defendant No.1 to 7 have executed Registered Agreement of Sale bearing No. 0308/2021-22 Dt. 07.05.2021 agreeing to sell the plaint schedule item No.1 property. Under the said agreement, the possession of the property is also handed over to defendant No.8. In spite of this the plaintiff has approached this court seeking partition of the said property on flimsy grounds. The plaintiff and defendant No.1 to 7 are not interested in selling the said property for the reasons best known to them, and trying to evade their obligation under the agreement. The plaintiff has no right whatsoever to seek for partition in respect of plaint schedule item No.1 property. Since they have executed Agreement of Sale in favour of defendant No.8 they are estopped from seeking the relief of partition and separate possession.

4. According to the applicant, on 04.01.2022, the plaintiff issued legal notice to defendant No.8 claiming that the Agreement of Sale was executed by suppressing true facts and his

signature was obtained by misrepresentation. The applicant denies all the allegations made in the notice and in the plaint averments. The conduct of the plaintiff seeking for partition in spite of executing Agreement of Sale is an abuse of process of law. The plaintiff has approached this court with unclean hands. Amongst other grounds, the applicant seeks to strike out the part of the plaint against the defendant No.8 and drop the proceedings in respect of plaint schedule item No.1 property.

5. The plaintiff filed objections to the said application denying the contents of the application. According to the plaintiff, the application of the defendant No.8 is not maintainable since no grounds are made. Admittedly, the alleged Agreement of Sale Dt. 07.05.2021 is an agreement only which does not confer title on defendant No.8. By virtue of the Agreement of Sale, the defendant No.8 will not become the absolute owner. The plaintiff by reiterating all the plaint averments has sought to dismiss the application.

6. Heard the learned counsel for plaintiff and defendant No.8. In addition, the learned counsel for defendant No.8 filed written arguments. Perused the same and the records.

7. This suit of the plaintiff is for the relief of partition and separate possession in respect of plaint schedule item No.1 to 7 properties. It is claimed that the plaintiff and defendant No.1 to 6 are the members of the Hindu undivided joint family and the plaint schedule properties are their ancestral properties, and no division has taken place between the plaintiff and defendant No.1 to 7.

8. The applicant / defendant No.8 has sought to strike out part of the plaint and pleadings against them. However, the applicant did not state anywhere in his application which part of the pleadings of the plaintiff must be struck out. Merely seeking striking of the pleadings without mentioning what to be struck out, such application lacks merit.

9. The provision under Order VI Rule 16 of CPC for reference is herein provided.

16. Striking out pleadings.- The Court may at any stage of the proceedings order to be struck out or amended any matter in any pleading-

(a) which may be unnecessary, scandalous, frivolous or vexatious, or

(b) which may tend to prejudice, embarrass or delay the fair trial of the suit, or

(c) which is otherwise an abuse of the process of the Court.

10. When the prayer sought in the application is appreciated with the above provision, the application is very silent on the pleadings which are unnecessary, scandalous, frivolous or vexatious, which necessitate striking. It is also not stated which part of the pleadings tend to prejudice, embarrass or delay the fair trial, and abuse of the process of court. In the absence of these material particulars, the pleadings cannot be struck out wholesale. The court cannot be selective in striking out pleading

which are alleged to be against defendant No.8, without material particulars. Moreover, the plaintiff has clearly averred in the plaint that the defendant No.1 by misrepresenting him and in collusion with defendant No.8 and 9 got executed Agreement of Sale without the consent of other coparceners. The serious allegations of misrepresentation is made in execution of agreement of sale in favour of defendant No.8.

11. Further, the defendant No.8 has sought to drop the proceedings against him in respect of plaint schedule item No.1 property. But, there is no provision in the Code of Civil Procedure for dropping the proceedings in a suit. The provision under Order VI Rule 16 of CPC does not contemplate dropping of the proceedings.

12. Similarly, the provision under section 115 of Indian Evidence Act deal with Doctrine of Estoppel. This principle underscores that a party cannot make contradictory claims or assertions in legal proceedings. The defendant No.8 did not bring

any facts stated by the plaintiff during the proceedings of the suit which preclude him from averring in the plaint. Therefore, the Doctrine of Estoppel can operate at this stage. Thus, by appreciating the materials on record, this court is of the opinion that the defendant No.8 has not made any grounds to strike out the pleadings. As stated above, the pleadings cannot be struck out wholesome. The applicant has not stated which part of the pleadings has to be struck out. Thus, having regard to the contentions taken in the plaint, there is no merit in the application. Hence, I proceed to pass the following:-

ORDER

I.A. No.IX filed under Order VI Rule 16

R/w Sec. 151 of C.P.C. is hereby rejected.

(Dictated to the stenographer, computerized by him, corrected by me and then pronounced in the open Court, on this the 6th day of February 2026)

(Md. Shaiz Chouthai)
Civil Judge and J.M.F.C., Sandur.