

**IN THE COURT OF ADDITIONAL CIVIL JUDGE &  
JMFC, JAMKHANDI, AT: JAMKHANDI.**

**PRESENT :**  
**SHRI.ARASHAD ANSARI,**  
***B.Com, L.L.M.,***  
**Addl. Civil Judge & JMFC,**  
**Jamkhandi.**

**Dated this 22<sup>nd</sup> day of June – 2024**

**O.S. No.168/2022**

1. Shri.Gurappa S/o Chandrappa  
Harijan @ Padasalagi,  
Age: 76 years, Occ: Rtd. Govt. Servant,  
R/o. Hire-padasalagi,  
Tq: Jamkhandi, Dist: Bagalkot.  
Now R/o. Bhavani Nagar,  
Near Allanur Hospital, Vijayapur.

**..... Plaintiff.**

**(By Shri.A.S.Y., Advocate)**

**Vs.**

1. Shri.Kusappa S/o Chandrappa  
Harijan @ Padasalagi,  
Age: 50 years, Occ: Agriculture,  
R/o. Hire-padasalagi,  
Tq: Jamkhandi, Dist: Bagalkot.

**..... Defendant.**

**(By Shri.A.P.K., Advocate)**

**I. A. No.II**

1. Shri.Kusappa S/o Chandrappa  
Harijan @ Padasalagi,

**..... Applicant/Defendant.**

**Vs.**

1. Shri.Gurappa S/o Chandrappa  
Harijan @ Padasalagi,

**.....Opponent/Plaintiff.**

Sl. No.	Details	Particulars
1	Provision under which the applications are filed	Under Order 7 Rule 11(b) R/w Section 151 of CPC
2	Relief sought for	For rejection of plaint
3	The date on which the application is filed	26-06-2023
4	Number of the applications	I.A.No.II
5	The date on which the objections are filed by the different opponent/s	28-11-2023
6	The date on which the orders were passed on the said application/s.	22-06-2024

\* \* \*

**ORDER ON I.A.NO.II FILED BY THE  
APPLICANT/DEFENDANT UNDER ORDER  
7 RULE 11 (b) R/W SECTION 151 OF CPC**

The defendant has filed this application under Order 7 Rule 11 (b) R/w Section 151 of CPC to reject the plaint for the reasons stated in the accompanying affidavit.

2. On the contrary plaintiff has filed objections stating that application is liable to be rejected.

3. Heard both sides. Perused the records.

4. On going through the same the following point that arose for my consideration is as under;

1) Whether the defendant has made out grounds for rejection of plaint?

2) What Order?

5. My findings to the above point is as under:

**Point No.1:-** In the Negative,

**Point No.2:-** As per final order for the following :

**: R E A S O N S :**

6. **POINT No.1:-** This present application is filed by the applicant/defendant praying to reject the plaint as this court has no pecuniary jurisdiction to entertain the suit.

7. In the accompanying affidavit it is contended that the plaintiff has filed this suit for the relief of declaration and injunction in respect of land bearing R.S.No.211/2B measuring 04 acres 02 guntas, R.S.No.220/1A measuring 03 acres 36 guntas,

R.S.No.220/1B/1 and R.S.No.119/1A/3 and all these lands are situated at Hire-padasalagi village in Jamkhandi taluka and plaintiff has valued the suit property under Section 24 (c) of KCF and SV Act and court fee is paid there on which is valued at Rs.1,000/-. The plaintiff further sought for declaration of relief in respect of land bearing R.S.No.220/1B/1 measuring 23 guntas and he is claiming ownership over the suit property. But the plaintiff has not paid the court fees on the declaratory relief as well as not made the valuation of the suit property. The valuation of the above said property is more than 10 lakhs. Hence Hon'ble court has no pecuniary jurisdiction to entertain the suit.

8. On the contrary plaintiff has objected the present application by contending that the present suit is filed for the relief of declaration and injunction and court fee is paid under Section 24 (c) of KCF and SV Act and since the plaintiff has properly valued the suit and court fee is properly paid. The present application is liable to be rejected with costs.

9. Before proceeding to give findings on the point under discussion it is material and well settled law that, while the application filed under 7 Rule 11 of CPC the court shall have to consider only statements of the plaint, no defense put forth by the defendants. In the decisions reported in **AIR 212 SC 3023 Bhauram Vs. Janaksingh, AIR 2003 SC 759 in Saleembhai and Others and State of Maharashtra and Others**, the Hon'ble Supreme Court of India has held that, while considering the application under Order 7 Rule 11 of CPC the court has to examine averments of the plaint and pleas taken by the defendants in the written statements are irrelevant. In the light of above mentioned decisions proceed to give findings on the point under discussions.

10. It is the specific contention of the defendant that the valuation of the suit and court fee paid by the plaintiff is improper. As per the valuation slip the plaintiff has valued the relief of declaration and permanent injunction at Rs.1,000/- under Section 24 (c) of KCF and SV Act. In the plaint, the plaintiff has claimed for

declaration that he is the owner of the suit property bearing R.S.No.220/1B/1 and permanent injunction against the defendants restraining him from obstructing the peaceful possession of plaintiff over the suit property. In the light of said assertions at this stage this court is of the opinion that as per plaint averments the valuation of suit and court fee paid by the plaintiff whether it is valued properly or not and this court has jurisdiction to try this case or not can be ascertained only after fulfilled trial. Any how above said aspect can be decided by framing a particular issue. Further more said issue is kept upon and the defendant can substantiate his aforesaid contention during the course of trial. If the suit is barred by pecuniary jurisdiction the duty of the court is to return the plaint instead of rejecting the plaint under the provisions of 7 Rule 11 of CPC. In view of the above discussion and in the light of above decisions this court has arrived at conclusion that the defendant has failed to made out the grounds for rejection of the plaint at this stage. Accordingly I answer Point No.1 in the

**'Negative'.**

11. **Point No.2:-** In view of the above said findings to Point No.1, I proceed to pass the following;

**: ORDER :**

I.A.No.2 filed by the defendant under Order 7 Rule 11(b) of CPC is hereby rejected.

No order as to costs.

*(Dictated to the Stenographer directly on computer and typed by him, and corrected, printout taken, signed by me and then pronounced in the open court on this the **22<sup>nd</sup> day of June - 2024**)*

Sd/-  
**(Arashad Ansari),**  
**Addl. Civil Judge & JMFC,**  
**Jamkhandi.**