

KABK710038452024



O.S./245/2024

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

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

**Dated this 2<sup>nd</sup> day of June- 2025**  
**O.S. No.245/2024**

1. Smt. Alakananda D/o Govindarao Hulyalakar,  
Age: 62 years, Occ: Household work,  
R/o Hulyalakar Galli, Jamkhandi,  
Tq: Jamkhandi, Dist: Bagalkot.  
And another one.

**..... Plaintiffs.**

**(By Shri..S.K.H, Advocate)**

**V/s.**

1. Smt. Indira W/o bindu Mokashi,  
Age: 70 years, Occ: Household work,  
R/o Shurapali, Tq: Jamkhandi,  
Dist: Bagalkot and others.

**..... Defendants.**

**(D-1 By Shri.S.P.L., Advocate)**  
**(D-2 By Shri.P.P.N., Advocate)**  
**(D-3 By Shri.K.S.H., Advocate)**  
**(D-4 By Shri.R.N.D., Advocate)**  
**(D-5 to 7 are Exparte)**

**I. A. No.IV**

1. Shri. Venkatesh S/o Annaji Upadhye.

..... **Applicant/Defendant No.3.**

**Vs.**

1. Shri. Alakananda D/o Govindarao Hulyalakar and another one.

...**Opponents/Plaintiffs.**

\* \* \*

Sl. No.	Details	Particulars
1	Provision under which the application is filed	Under Order 7 Rule 11(a) and (d) R/w Section 151 of CPC
2	Relief sought for	Rejection of plaint
3	The date on which the application is filed	04-02-2025.
4	Number of the applications	I.A.No.IV.
5	The date on which the objections are filed by the different opponent/s	11-03-2025.
6	The date on which the orders were passed on the said application/s.	02-06-2025

**ORDER ON I.A. NO.IV**  
**FILED UNDER ORDER VII RULE 11(a)&(d) R/W SECTION 151 OF CPC**

The Defendants No. 3 have filed this application under Order 7 Rule 11(a) & (d) of the CPC, seeking the

rejection of the plaint for the reasons stated in the accompanying memo of facts.

2. In response, the plaintiff has filed objections, stating that the application is not maintainable and has prayed for the rejection of the application with costs, citing the reasons outlined in the objections.

3. Heard arguments. The materials available on record have been duly perused.

4. Upon going through the same following points arose for my consideration;

1. Whether the defendant No.3 has made out grounds for rejection of plaint as alleged?

2. What Order?

5. My answers to the above points are as under;

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

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

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

6. **Point No.1:-** The defendant No.3 contends that the plaint is liable to be rejected under Order VII Rule 11(a) and (d) CPC due to multiple legal defects. The plaintiffs misrepresented Defendant No.4 as a government entity to avoid the mandatory notice under Section 80 CPC, whereas it is a statutory body governed by the Karnataka Municipalities Act. They failed to serve the required 60-day notice under Section 284 of the Act, making the suit barred by law. The plaintiffs also admitted they lack documentary evidence to prove possession and the suit is clearly barred by limitation, as the sale deed dates back to 1992 with no timely objections raised. The relief sought is vague, failing to meet the requirements of Section 34 of the Specific Relief Act and the plaint lacks clear and specific cause of action, violating Order VII Rule 8 and Order VI Rule 2(3) CPC. These procedural and substantive deficiencies render the suit untenable in law.

7. On the other hand, the plaintiff submit that Defendant No.3 has not filed a written statement and therefore lacks locus standi to file an application under Order VII Rule 11(a) and (d) read with Section 151 of the Code of Civil Procedure for rejection of the plaint. The affidavit filed in support of the application contains false statements, which are specifically denied by the plaintiffs. The issues raised in the application such as limitation, declaratory relief and compliance with Section 284 of the Karnataka Municipalities Act are matters that require a full-fledged trial and can only be properly adjudicated at that stage. Similarly, the existence or absence of cause of action must be determined during trial based on evidence. The right to invoke Order VII Rules 10 and 11 arises only after filing a written statement or during the framing of issues. Hence, the application filed prior to the submission of a written statement is premature and not maintainable.

8. Before proceeding to give findings on the point under discussion, it is important to note the settled position of law. While considering an application filed under Order 7 Rule 11 of the CPC, the court is required to focus solely on the statements made in the plaint, and not the defense presented by the defendant. This legal principle is well-established in several judicial pronouncements, including ***Bhauram Vs. Janaksingh (AIR 2012 SC 3023)*** and ***Saleem Bhai and Others Vs. State of Maharashtra and Others (AIR 2003 SC 759)***. The Hon'ble Supreme Court and the Hon'ble High Court of Karnataka have consistently held that, while considering an application under Order 7 Rule 11, the court should examine only the averments of the plaint, as the defendant's written statement or defense is not relevant at this stage. In light of these judicial precedents, I shall now proceed with further examination of the application.

9. It is clear that Defendant No.3 has failed to establish clear and specific grounds for rejection of the plaint at this preliminary stage. The nature of the property, the plaintiffs legal entitlement and the question of possession are complex factual matters that require a full-fledged trial. Additionally, the plea of limitation is a mixed question of law and fact. Courts have repeatedly held that limitation cannot be determined solely on the basis of the plaint unless the bar is apparent on its face, which is not the case here.

10. Moreover, the suit involves claims regarding alleged wrongful construction, demolition and property rights matters that are inherently factual and cannot be decided without allowing both parties to lead evidence. Prematurely rejecting such a suit would amount to denying the plaintiffs the opportunity to establish their case through due process. The rejection of a plaint is a drastic measure and should be exercised sparingly and

only when it is absolutely clear that the suit is barred by law or discloses no cause of action.

11. In the present case, the plaint does set out material facts that constitute a cause of action and the legal objections raised by Defendant No.3 do not conclusively show that the suit is barred or devoid of merit. Accordingly, I am of the considered opinion that the application is devoid of merit. The issues raised by the defendants can only be properly examined and adjudicated during the course of a full trial, upon consideration of oral and documentary evidence from both sides. Therefore I answer Point No.1 in the '**Negative**'.

12. **POINT No.2:-** For the reasoning's and findings given to point No.1, I proceed to pass the following :

**: O R D E R :**

The I.A.No.IV filed by the applicant/defendant No. 3 under Order VII

Rule 11(a) and (d) R/w Section 151 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 **2<sup>nd</sup> day of June- 2025**)*

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