

KABR310003342015



IN THE COURT OF THE PRINCIPAL SENIOR CIVIL JUDGE &

J.M.F.C., AT DEVANAHALLI.

PRESENT

SRI. PRAVEEN NAYAK, LL.M.,

Prl. Senior Civil Judge & J.M.F.C.,
Devanahalli.

Dated this day of 11th November 2025

O.S.No.243/2015

BETWEEN:

Smt. Priyanaka : **Plaintiff**
D/o Ramanjinappa
(Plt. - By Sri.M.G.P., Advocate)

AND:

Sri. Ramanjinappa : **Defendants**
S/o Late Narayanaswamy
(Deft. 1- By Sri. D.B.A., Advocate)
(Deft.2 - By Sri. H.S., Advocate)
(Deft.3 - By Sri. K.G.R., Advocate)

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i	Provision under which the application is filed	U/o.VII Rule 11 (a) and (d) of C.P.C
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ii	Relief sought for	Rejection of Plaintiff
iii	The date on which the application is filed	28-03-2024
iv	Number of the application	I.A.No.VIII
v	Date of filing objection	25-06-2024
vi	Date of Pronouncement of Order	11-11-2025

Sd/-
(PRAVEEN NAYAK)
Prl. Senior Civil Judge & J.M.F.C.,
Devanahalli.

ORDER ON I.A.No.VIII

The instant application has been by the counsel for defendant No.3 U/o.VII Rule 11 (a) and (d) of C.P.C for rejection of plaintiff.

2. In the affidavit accompanying application, the defendant No.3 has stated that the suit schedule property has been alienated on 29.11.1995 for valuable sale consideration. The possession of the property has been handed over to the defendant No.2 subsequent to sale deed and all the RTC entries



have been effected. The defendant No.2 acquired the possession and enjoyment of the suit property. The defendant No.5 purchased the property as per Sale Deed dated 19.07.2007 for valuable sale consideration. She is in possession and enjoyment of the same. The father of the plaintiff alienated the property in the year 1995 and the plaintiff was not born at that time. The sale took place prior to 2004 and law protects the alienation. The plaintiff or her family members are not in possession of the property. There is no relationship between the plaintiff and defendant No.3. The cause of action to file the suit is a created one. Hence, prayed to allow the application.

3. The application is opposed by the counsel for plaintiff by stating that the same is not maintainable under law. It is stated that there is cause of action to file the suit. Hence, prayed to reject the application.

4. The brief averments of the Plaint are as follows:

The suit property originally belong to Narayanaswamy, the grandfather of the plaintiff. After his demise the suit property fallen to the share of defendant No.1. In the month of November



2014, the strangers came near the suit property to interfere in the possession of the plaintiff. The plaintiff resisted the same and on enquiry she came to know that the defendant No.1 alone sold the suit property on 29.11.1995 in favour of defendant No.2 and subsequently the defendant No.2 sold the property in favour of defendant No.3 on 19.07.2007. The sale transactions took place behind the back of the plaintiff. The plaintiff has got a share in the suit property. Hence, prayed to decree the suit.

5. Heard both sides.

6. **The following points would arise for my consideration:**

1. Whether the defendant No.3 has made out grounds for rejection of plaint?
2. What order?

7. My findings on above points are as under:

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

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



REASONS

8. Point No.1: The defendant No.3 has sought for rejection of plaint mainly on the following grounds :

- a. There is no cause of action to file the suit.
- b. The suit is opposed to law.

9. It is trite to mention here that while considering the application filed under Order VII Rule 11 of C.P.C. the court need to look into the plaint averments alone. It is also trite law that the averments of Written Statement are irrelevant while considering the issue of rejection of plaint. Therefore, the claim of defendants in seeking rejection of plaint has to be considered in the light of said settled law.

10. On meaningful reading of the plaint, it is the case of the plaintiff that the suit property belong to her grandfather and the defendant No.1, having no legal right to alienate the suit property alone has sold the same in favour of defendant No.2 in the year 1995. The plaintiff continued to be in joint possession of the suit property. The plaintiff came to know about the alienation



in the month of November 2014, when the strangers entered the suit property. It is also claimed that the defendant No.2 subsequently sold the suit property in favour of defendant No.3 on 19.07.2007. The cause of action is a bundle of facts and shall be gathered by reading the entire plaint averments.

11. On careful perusal of the affidavit accompanying the application, it appears that the defendant No.3 has claimed that there is no cause of action to institute the suit. It is the case of the defendant No.3 that the alienation was made prior to 20.12.2004 and the daughter can not claim the right over the suit property as per amendment to Section 6 of Hindu Succession Act. The learned counsel for the defendant No.3 has relied upon a decision of Hon'ble High Court of Jammu and Kashmir reported in **AIR 2024 (NOC) 351 (J & K)**, wherein it is held that the sale deed executed on 07.05.1990 can not be challenged by the daughter in the year 2013 as the same is barred under Section 6 of Hindu Succession Act. It is stated that the cut off date of 20.12.2004, is applicable to the daughters to seek share in the property. However, the said decision is rendered by Hon'ble High Court of Jammu and Kashmir. In a recent decision of Honb'le



High Court of Karnataka dated 14.09.2020, rendered in **CRP No.431/2014, Sri. H.P Chikkarama Reddy and another V/s Smt. Kanthamma and others** it is held that the daughters can not preferred a suit for partition in the event if they had no right over the property prior to the amendment came into force. If the alienation was made subsequent to coming into force of Karnataka amendment with effect from 30.07.1994, then on the ground of partition or sale, her right can not be denied. If the alienation was made subsequent to 30.07.1994, the daughter can maintain a suit for partition. In view of the above decision, the decision relied upon by the counsel for plaintiff is not applicable to the present set of facts. It is to be noted here that the defendant No.3 has not urged any other grounds in the present application for rejection of plaint. Therefore, the defendant No.3 has not made out grounds to allow the application. **Hence, I answer point No.1 in the Negative.**

12. Point No.2 : In view of the above findings, this court proceed to pass the following:



ORDER

I.A. No.VIII filed by the defendant No.3 under Order VII Rule 11 (a) & (d) of C.P.C is hereby rejected.

No order as to cost.

(Dictated to the Stenographer, transcribed and computerized by her, same is corrected and then pronounced by me in the open court on this the 11th Day of November, 2025).

Sd/-
(PRAVEEN NAYAK)
Prl. Senior Civil Judge & J.M.F.C.,
Devanahalli.