



**IN THE COURT OF I ADDL SENIOR CIVIL JUDGE &
JMFC, DEVANAHALLI.**

Present: Sri Lokesha M.G., B.A.L.,LL.B.,

O.S.NO.292/2018

Dated this the 20th day of September, 2025.

PLAINTIFF: Smt. Padma

(By Sri. A.D.M., Advocate)

Vs.

DEFENDANTS: Smt. Rathna and Others

(D10 - By Sri. T.K.V., Advocate,)

ORDER ON I.A.NO.VI

This application is filed by the defendant No.10 U/O VII R-11(a) and (d) of C.P.C. to reject the plaint as there is no cause of action and barred by Law.

2. It is stated in the accompanying affidavit that suit is for Partition. Defendant No.10 was the earlier owner of



item No.1, 2, 4 and 5 of schedule properties. Originally the said properties were acquired by Muniyamma and Shanthakumar in the year 1972, 1984 and 1986. Thereafter, they sold the said properties in favour of defendant No.10 in the year 1986, 1990 and 2006. They were the self acquired properties of Shanthakumar and Muniyamma. They duly alienated the said properties in favour of defendant No.10. He thereafter alienated portion of the said properties in favour of proposed defendant No.77 on 27.05.2022 and retained Sy.No.70/2 measuring 30 Guntas. Hence, said properties are self acquired properties of the vendors of the defendant No.10. As such plaintiff is not entitled to any relief. Defendant No.10 was competent to execute Sale Deed in favour of proposed defendant No.77 in respect of said properties. Suit is barred by limitation. Plaintiff has not chosen to challenge the said documents as per the time limit. There is no cause of action. Cause of action is fabricated. To harass the defendants, suit is filed on the basis of created cause of action. Hence, plaint is liable to be rejected. Plaintiff has no locus standie to file the suit. Hence, it is prayed to allow the application.



3. Objection is filed stating that application is not maintainable. Defendant No.10 has not gone through the plaint averments properly. It is untenable application. Falsely it is filed, to mislead the Court. Application averments are false. Documents are forged by the defendant No.10 without knowledge of the plaintiff. Plaintiff has not signed on the documents. It is categorically stated in plaint about cause of action. Plaintiff and defendant No.1 to 6 are the brothers and sisters. They have admitted their relationship and nature of suit properties. There was no Partition. Defendant No.10 is not owner of suit properties. He has sold the properties in favour of proposed defendant No.77 without knowledge of the plaintiff. False application is filed. Hence, it is prayed to dismiss the application.

4. Heard the arguments and perused the materials on record.

5. The following points that arise for my consideration are;

- 1.** Whether the defendant No.10 has made valid grounds to reject the plaint as plaint



does not disclose cause of action and barred by law as per order VII Rule 11(a) & (d) R/W Section 151 of C.P.C.?

2. What order?

6. My answer to the above points is as under:

Point No.1: In the NEGATIVE

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

REASONS

7. POINT No.1: The plaintiff has filed suit for the relief of Partition seeking share in respect of suit properties. She has sought the relief to challenge the Sale Deeds for the year 1986 and 1990. But, they are not in respect of all schedule properties. They are in respect of item No.1, 2, 4 and 5 properties. The documents produced by the plaintiff are pertaining to those properties and they are the Sale Deeds. Encumbrance Certificate is produced by the plaintiff and they are pertaining to item No.3 and 7 properties. It shows that there was sale in the year 1986 in respect of those properties. But, in respect of item No.6 & 8 to 11, there are no Sale Deeds and no Encumbrance Certificate. The defendant No.10 is concerned in respect



of item No.1, 2, 4 and 5 of schedule properties. It is fact that the Sale Deeds were executed in the year 1984 and 1986. But, plaint can't be rejected in part in respect of some properties. In the plaint, it is stated that plaintiff and defendant No.1 to 9 are the joint family members and they are in joint possession and enjoyment of suit properties. Ramaiah acquired the several properties in the name of his wife Muniyamma and his son Shanthakumar. But, they were not having capacity to buy the land since Muniyamma was housewife and Shanthakumar was student at the relevant time. It is the burden of the plaintiff to prove the said fact. It is also stated that Muniyamma and Shanthakumar acquired the properties in the year 1984. They are item No.1 to 3 of the schedule properties. Shanthakumar acquired the properties in the year 1984, 1986 and 1987. They are in respect of item No.4 to 7 properties. It is stated that Ramaiah died in the year 1981 leaving behind the plaintiff and defendant No.1 to 6 as legal heirs. Muniyamma died in the year 1985. Plaintiff and defendant No.1 to 6 have succeeded the estate and there is no Partition. Defendant No.4 was acting as Kartha of joint family and managing the joint



family affairs. He has neglected the plaintiff and hence plaintiff demanded the share. There are Sale Deeds in respect of item No.4 to 7 of schedule properties in favour of defendant No.10. It is also stated that defendant No.5 sold item No.1 property in favour of defendant No.10. The said Sale Deeds are nominal Sale Deeds to knock off the compensation to be awarded by KIADB with respect to item No.4 to 7 of schedule properties. Hence, plaintiff is entitled to share in respect of suit properties and compensation. Defendant No.4 is trying to deprive the legitimate right of the plaintiff with respect to her share. On perusal of entire plaint averments, I am of the opinion that it discloses cause of action. Plaint documents are prima facie supporting the plaint averments. R.T.Cs are produced. Sale Deeds are produced. Encumbrance Certificate is produced. They are in respect of item No.1 to 5 and 7. But, with respect to item No.6 and 8 to 11, no Sale Deeds and Encumbrance Certificate are produced. As it is already discussed above, plaint can't be rejected in part. Hence, there are no grounds in the application. Objection is sustainable. On perusal of entire materials on



the record, I am of the opinion that application is liable to be dismissed.

8. *As per the ruling reported in 2018 (11) SCC 780 in between Sejal Glass Limited Vs. Navilan Merchants Private Limited and in 2019 (7) SCC 158 in between Madav Prasad Agarwal & Another Vs. Axis Bank Limited, the Hon'ble Supreme Court has held that, the plaint as presented must proceed as a whole or rejected as a whole but not in part. It is also held that, the relief of rejection of the plaint in exercise of power Under Order 7 Rule 11(d) of CPC cannot be pursued only in respect of one of the defendants. In other words, the plaint has to be rejected as a whole or not at all as per Order 7 Rule 11 of CPC. In view of the above said principles and observations made in the said judgments, it is clear that, plaint cannot be rejected partly. It is also held in Civil Appeal 7413/2023 by Hon'ble Apex Court in between Kumari Geetha Vs. Nanjundaswamy & Others. Plaint cannot be rejected in part. It is also held that, it is not permissible to reject plaint qua any particular portion of a plaint including against some of the defendants and continue the same against the others.*



9. On perusal of the relief sought for in the suit and plaint averments, I am of the opinion that, it discloses cause of action. The Applicant has not made out the grounds to allow the application. Accordingly, I answer Point No.1 in the **"NEGATIVE"**.

10. **POINT No.2:** As per the above said discussion, I pass the following:

ORDER

IA.No.6 filed by the defendant No.10
Under Order VII Rule 11(a) & (d) R/W
Section 151 of C.P.C. is hereby dismissed
with cost of Rs.500/-.

(Dictated to the Stenographer, transcribed and computerized by her, transcript revised, corrected and pronounced by me, in the Open Court, dated this the **20th** day of **September, 2025**).

Sd/-
(Lokesha.M.G.)
I Addl Sr.Civil Judge & Jmfc.,
Devanahalli.