

KABR410004342025



IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC AT.,

DODDABALLAPURA.

Dated this the 14th day of July 2026.

PRESENT : SMT. SHILPA.H.A.

B.A.L., LL.B.,

Senior Civil Judge & J.M.F.C.

Doddaballapura.

O.S.No.361/2025

Plaintiff/s:

1. SRI. CHIKKANARAYANAPPA.R.P

S/o Late Papanna,
Aged about 60 years,
R/at, Rajaghatta Village,
Kasaba Hobli,
Doddaballapura Taluk.

(By Sri.V.B., Advocate for plaintiff)

-Vs-

Defendant/s:

1. SRI. AMARANARAYANA.R.P

S/o Late Papaiah,
Aged about 66 years,
R/at, Rajaghatta Village,
Kasaba Hobli,
Doddaballapura Taluk.

(By Sri.R.K.K., Advocate for defendant)

*** * * * ***

ORDER ON I.A.No.III

Defendant has filed I.A.No.III under order 7 Rule 11 (a) & (d) R/w Sec.151 of CPC., for rejection of plaint.

2. FACTS IN BRIEF:

The Plaintiff has filed this suit for the relief of declaration that he is the absolute owner in possession and enjoyment over the suit schedule property, to declare the Gift deed dated:17.07.2023 executed in favour of defendant No.1 & 3 by Govindamma is null and void and for consequential relief of permanent injunction.

3. It is the case of the plaintiff that he is the absolute owner in possession and enjoyment over the suit schedule property. Originally suit schedule property belongs to one Doddanjinappa who is the father-in-law of Govindamma. After the demise of Doddanjinappa, his children have partitioned the Ancestral and Joint Family properties on 04.04.1989 in which suit schedule properties were allotted to the share of Adianjineya and accordingly Revenue entries were transferred in his name vide MR.No.26/2000-01. Said Anjineya died and thereafter his wife Govindamma acquired the suit schedule properties and they were

issueless. Said Govindamma got Revenue entries in her name and thereafter she had executed the Will in favour of plaintiff on 04.05.2022 and she died on 09.01.2025. Though defendant has got no manner of right, title and interest over the suit schedule properties, he has created and concocted Gift deed dated:17.07.2023 when the said Govindamma was admitted in Nimhans Hospital. Hence, this suit for declaration and permanent injunction.

4. Defendant has filed I.A.No.3 under order 7 Rule (a) & (d) R/w Sec.151 of CPC, for rejection of plaint and denied plaintiff's title and possession over the suit schedule properties and further contended that Govindamma W/o Anjineya was the absolute owner of the suit schedule properties and during her life time out of love and affection she had executed Registered Gift deed on 17.07.2023 and accordingly Revenue entries were transferred in the name of defendant. Plaintiff has got no right, title or possession over the suit schedule properties. There is no cause of action to file this suit. The suit properties are the self acquired properties of Govindamma and she has absolute right to execute Gift deed in favour of defendant. Even if any Will was executed by

the testator, it has no sanctity if the testator had executed Gift deed subsequent to the will and therefore Gift deed overrides will and the Will comes into operation only after the death of testator. Hence, defendant had become the absolute owner based on the Gift. Hence, prays to reject the plaint in the interest of justice and equity.

5. Plaintiff has filed objections to these I.A and denied the entire I.A and affidavit averments as false and reiterated the averments of plaint and further contended that she has mentioned the cause of action and the suit is not barred by any law. The application filed by the defendant is not maintainable. Hence prays to dismiss the I.A.III with exemplary cost in the interest of justice and equity.

6. Heard both sides by the advocate for plaintiff and defendant.

7. The points that arises for my consideration.

Point No.1: Whether the defendant has urged valid grounds for rejection of plaint under order 7 Rule 1 (a) and (d) of CPC?

Point No.2: What order?

8. My findings on the afore said points are as under:

Point No.1 : In the Negative

Point No.2 : As per final orders.

REASONS

9. POINT NO.1: This is an application filed by the defendant under order VII Rule 11 (a) and (d) R/w Sec.151 of CPC for rejection of plaint. The allegation made by the defendant is that one Smt.Govindamma was the absolute owner of the suit schedule properties acquired from her husband and out of love and affection she had executed Gift deed dated:17.07.2023 in favour of defendant and therefore the suit filed by the plaintiff based on the created Will is not maintainable and there is no cause of action. It is the specific case of the plaintiff that Smt.Govindamma and her husband Anjineya were issueless and Smt.Govindamma had acquired the suit schedule properties and thereafter out of love and affection she had bequeathed the suit schedule properties in favour of plaintiff under Will dated:04.05.2022 and hence he is the absolute owner. On perusal of the contentions taken by both the parties it goes to show that plaintiff is claiming absolute ownership based on the

Will dated:04.05.2022 and on the other hand defendant is claiming his absolute ownership based on the Registered sale deed dated:17.07.2023. Since both are claiming absolute ownership over the suit schedule properties based on two documents, the genuinity of the said documents has to be adjudicated only through trial. Though Will is unregistered document, it is not mandatory to register the Will and therefore the burden is upon the plaintiff to prove due execution of Will by the testator when she was in sound disposing state of mind. Similarly defendant has relied upon Registered Gift deed dated:17.07.2023 stating the very same Govindamma had gifted the suit schedule properties. He should also prove that doner had duly executed the Gift deed in favour of defendant by having full knowledge about the act. Hence, at this stage there are no grounds for rejection of plaint as sought by the defendant. Plaintiff has shown cause of action to seek declaratory relief and permanent injunction. Therefore, there is cause of action to file this suit and the present suit is also not barred under any law.

10. Order VII Rule 11 reads as under;- The plaint shall be rejected in following cases:-

- (a). Where it does not disclose a cause of action;
- (b). Where the relief claimed is undervalued and the plaintiff on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;
- (c). Where the relief claimed is properly valued but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply there requisite stamp paper with a time to be fixed by the Court, fails to do so;
- (d). Where the suit appears from the statement in the plaint to be barred by any law;
- (e). Where it is not filed in duplicate.
- (f). Where the plaintiff fails to comply the provisions of Rule 9.

In (2020) 3 Indian Civil Cases 448 The Hon'ble Supreme Court held that:-

“Documents filed along with plaint, are required to be taken into consideration for deciding application U/o. 7 R.11 (a) of C.P.C. When

**document referred in the plaint, forms basis of
plaint, it should be treated as a part of plaint.”**

In the case of **H.S. DEEKSHIT & ANR. versus M/S.
METROPOLI OVERSEAS LIMITED & ORS.** reported in **2022
Live Law (SC) 703** it was held that:-

**“Averments in the plaint alone are to be
examined while considering an application
for rejection of plaint and No other
extraneous factor can be taken into
consideration.”**

The principles laid down in the above said citations aptly
applies to the case on hand. The defendant has relied upon 5
citations in support of his contention. They are as follows:-

1. The Hon'ble Supreme Court held in AIR 1977 in the case of
T.Arivandanandam Vs. T.V.Satyapal and another.
2. In ILR 2019 KAR 4739 in the case of M/s Durga Projects
and Infrastructure Pvt. Ltd., Vs. Sri.S.Rajagopala Reddy and
Others.

3. In Civil Appeal No.9519 of 2019 in the case of Dahiben Vs Arvindbhai Kalyanji Bhanusali (Gajra) dead through legal representatives and others.
4. In CRP.No.2002 of 2021 and CMP No.15195 of 2021 in the case of C.Venkatesan and another Vs R.Vasantha and others.
5. The Supreme Court held in (2009) 15 in the Case of Gangamma and Others Vs G.Nagarathnamma and others.

In the above said citations the Hon'ble Apex Court has discussed the grounds for rejection of plaint, how Will and Gift deeds shall be proved and rights of female heirs and other aspects. As already discussed above no doubt Govindamma is the absolute owner of the suit schedule properties but the dispute is whether she had executed Will in favour of plaintiff or executed Gift deed in favour of defendant and the same shall have to be adjudicated only through trial. By considering the provisions of order 7 Rule 11(a) & (d) along with plaint averments I am of the opinion that there is cause of action to file this suit and the suit is not barred under any law. Hence, **I Answer Point No.1 in the Negative.**

11. POINT NO.2: In view of my findings on Point No.1.

Accordingly, I proceed to pass the following;

ORDER

**I.A.No.III filed by the
defendant under order 7 Rule 11
(a) & (d) R/w Sec.151 of CPC., is
hereby dismissed.**

No order as to cost.

(Dictated to the Stenographer transcribed, typed and printout taken by her, corrected by me and then pronounced in the open court on this the 14th day of July 2026)

(SHILPA.H.A)
Senior Civil Judge & JMFC
Doddaballapura.