

ORDERS ON I.A.No.IV, VI & XIII

Defendant No.1 has filed I.A.No.IV under order 2 Rule 2 R/w Sec.151 of CPC., to dismiss the suit/ reject the plaint.

Defendant has filed I.A.No.VI under Order 9 Rule 7 of CPC., to recall the order dated:07.08.2025 and permit him to contest the matter on merits.

Plaintiff has filed I.A.No.XIII under Sec.151 of CPC., to permit her to file objection to the I.A.

2. The defendant No.1 has sworn to an affidavit in support of this I.A.No.4 and contended that the plaintiff along with defendant No.8 & 9 by name Akkayamma and Jayalakshamma have filed suit in O.S.No.108/2023 before the 1st Addl. Senior Civil Judge and JMFC, Doddaballapura which is still pending for consideration. After 2½ years the plaintiff has filed this suit seeking the same relief of partition and separate possession. The defendant No.1 to 5 herein have also filed suit in O.S.No.671/2023 before this Senior Civil Judge and JMFC much prior to O.S.No.1082/2023 seeking the relief of partition and separate possession and the same is still pending for consideration. The

O.S.No.881/2025

defendant No.7 has filed another suit in O.S.No.492/2024 before the Addl. Senior Civil Judge and JMFC for the relief of declaration and injunction and the same is also still pending for consideration. The schedule property in all the above suits are one and the same but the plaintiff herein without disclosing all these facts has filed this false suit only with an intention to harass the defendant No.1 to 5 in abuse of court time. There is already an interim order of stay which has been granted in O.S.No.671/2023 and O.S.No.492/2024. In O.S.No.1082/2023 the 1st Addl. Senior Civil Judge has dismissed the application filed under order 39 Rule 1 & 2 vide order dated:19.07.2025. Even in O.S.No.492/2024 the filed by the defendant No.7 under Sec.151 of CPC restraining the KIADB from disbursing the compensation amount and said I.A has been dismissed by the Addl. Senior Civil Judge vide its order dated:19.04.2025. Hence, the present suit is barred under law as the provision under order 2 Rule 2 of CPC is very clear that "It mandates that the plaintiffs must include the whole of their plaint arising from a single cause of action in one suit". Hence, the suit is liable to be dismissed / plaint is liable to be rejected under the same provision.

3. Plaintiff has filed objection to this I.A and denied I.A entire I.A and affidavit averments as false and further contended that the defendant No.1 has not come up with specific plea with regard to non existence of cause of action and also has not clearly mentioned under which law suit has to be rejected. The application lacks bonafide and the same is liable to be rejected with exemplary cost in the interest of justice and equity.

4. Defendant No.6 has sworn to an affidavit in support of I.A.No.6 and contended that on the last date of hearing he could not appear before the court as he was out of station and hence he was placed exparte. Therefore prays to recall the order dated:07.08.2025 and permit him to contest the matter in the interest of justice and equity.

5. Plaintiff has sworn to an affidavit in support of I.A.No.13 and contended that he could not file objection to to I.A due to nonavailability of document and recently he found documents and hence prays to permit her to file objection to the I.A in the interest of justice and equity.

6. The points that arise for my consideration are as follows;

1. Whether I.A.No.IV filed by the defendant No.1 under Order 2 Rule 2 of CPC.,is hereby allowed?
2. Whether I.A.No.VI filed by the defendant under Order 9 Rule 7 of CPC., is hereby allowed?
3. Whether I.A.No.XIII filed by the plaintiff under Sec.151 of CPC., is hereby allowed?
4. What order?
7. Heard the arguments and perused the materials placed before me.
8. My findings to the above points are as follows;

POINT No.1 : In the Negative.

POINT No.2 : In the Affirmative.

POINT No.3 : In the Affirmative.

POINT No.4 : **As per final order
for the following;**

REASONS

9. **POINT NO.1:** Plaintiff has filed this suit for partition and separate possession seeking her 1/8th share in the suit schedule properties bearing Sy.No.236/3, 180, 231, 309 and 310/2 against 10 defendants. It is the case of the defendant No.1 that several partition suits as well as declaration suits are pending in respect of very same property between the same parties and hence the suit is liable to be dismissed under Order 2 Rule 2 of CPC.

10. Order 2 Rule 2 speaks that every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any court. In support of the contention of the defendant No.1 she has relied upon 12 documents. As per the case papers pertaining to O.S.No.671/2023 the defendant No.1 to 4 have filed suit against defendant No.5 to 8 for the relief of partition and separate possession in respect of the properties bearing Sy.No.319, 269/1, 236/1, 180, 231/3, 309 and 310/2. In the said case an order of Temporary Injunction was granted at the time of filing the suit and the same has been extended.

11. As per the case papers pertaining to O.S.No.1082/2023 the plaintiff and defendant No.8 & 9 herein have filed suit against defendant No.1, 6

& 2 others for the relief of partition and separate possession in respect of 4 properties bearing Sy.No.231 296, 309, and 310/2. In the said case an order of Temporary Injunction was granted at the time of filing the suit and later said I.A came to be dismissed vide order dated:28.08.2025.

12. As per the case papers pertaining to O.S.No.492/2024 the defendant No.7 herein has filed declaration suit to declare the Registered sale deed dated:20.03.2024 and GPA dated:15.03.2023 are not binding on plaintiff and consequential relief of permanent injunction against the defendant No.1 to 4 and 10 herein along with 7 others in respect of Sy.No.236/1. In the said case an order of Temporary Injunction was granted at the time of filing the suit and later said order was confirmed by allowing I.A.No.1 vide order dated:15.02.2025.

13. As per the case papers pertaining to O.S.No.671/2023, O.S.No.1082/2023 and O.S.No.492/2024 suits are filed in respect of same properties whereas in some suits all the properties are not included. As per O.S.No.1082/2023 the plaintiff herein herself has filed suit seeking her respective share in properties bearing No.231, 296, 309 & 310/2 whereas in this suit she has sought partition and separate possession in respect of Sy.No.236/3, 180, 231, 309 & 310/2. Hence it appears that she had left some properties in the earlier suit and she has added some properties in this suit. Since plaintiff had already filed a suit for partition and separate possession, 2nd suit for similar relief is

not maintainable. She is at liberty to add left out properties in the earlier suit and seek her respective share but she cannot go on filing many number of partition suits.

14. Now the question before me is that whether plaint can be rejected under order 2 Rule 2 of CPC has to be considered. In the recent judgment rendered by the Hon'ble Supreme Court in India in the case of S.Valliammai and others Vs Ramanathan and others dated:16.04.2026 it was held that order 2 Rule 2 does not create statutory bar to the institution of the suit, it only disentitles the plaintiff from claiming omitted reliefs arising from the same cause of action in a later suit. A defense under order 2 Rule 2 cannot ordinarily be decided at the threshold by rejecting the plaint. Therefore, plaint cannot be rejected at the threshold under order 2 Rule 2 of CPC. But if the necessary facts are admitted or are evident from the undisputed record the suit can be dismissed under order 2 Rule 2 of CPC. Even dismissal of suit under order 2 Rule 2 is permissible only after the court determines that the ingredients of order 2 Rule 2 are satisfied, either as a preliminary issue or after trial. Hence, at this stage the suit is not either liable to be rejected or dismissed under order 2 Rule 2 of CPC. Hence, **I answer Point No.1 in the Negative.**

15. POINT No.2 & 3: Since these two points are inter-related they are taken up together for common discussion. Defendant No.6 has contended that since he was out of station he could not appear on the last date of hearing and therefore he was placed exparte. Since this is a

suit for partition and separate possession and defendant No.6 is the family member, he shall be given an opportunity to contest the matter by filing his written statement. Defendant No.6 has made out valid grounds for setting aside the exparte order. So far as I.A.No.13 is concerned plaintiff had not filed objection in the earlier stage and hence she prays to seek permission to file objection. She had urged valid grounds and hence I.A.No.13 shall be allowed in the interest of justice and equity. Hence, **I answer Point No.2 & 3 in the Affirmative.**

16. POINT No.4: For the aforesaid reasons, I proceed to pass the following:

ORDER

I.A.No.IV filed by the defendant No.1 under order 2 Rule 2 R/w Sec.151 of CPC., is hereby dismissed.

I.A.No.VI filed by the defendant No.6 under order 9 Rule 7 of CPC., is hereby allowed.

The order placing defendant No.6 exparte is hereby set aside and he is permitted to contest the matter.

I.A.No.XIII filed by the plaintiff under Sec.151 of CPC., is hereby allowed.

**The objections filed on I.A.No.4 is taken on
record.**

For hearing on I.A.No.16 on.-24.08.2026.

(SHILPA.H.A)

**Senior Civil Judge & JMFC
Doddaballapura.**