

**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC,
HOSAKOTE.**

PRESENT:

Sri. Arun Kumar.G. B.A., LL.B.
Senior Civil Judge & JMFC,
Hosakote.

Dated this the 10th day of April 2026

O.S.No.614/2023

Plaintiff/s : Smt.Chikkamuniyamma @ Ratnamma

- V/s -

Defendant/s : Sri.Chikkanna & Ors.

Applicants : Sri. Chikkanna & Ors. (Def.No.1 to 6)

Provision under which the application is filed	Order 7 Rule 11(a), (c) & (d) R/w Section 151 of CPC
Relief sought for	Rejection of plaint
The date on which the application is filed	25-01-2024
Number of the application	I.A.No.5
The date on which the objections are filed by the different opponents	05-11-2024
The date on which the orders were passed on the said application	10-04-2026

Order on I.A.No.5

The defendant No.1 to 6 have filed the above application under Order 7 Rule 11 (a), (c) and (d) R/w Section 151 of CPC to reject the plaint for want of cause of action and it is also barred by law of limitation.

2. In the annexed affidavit it is stated that, the plaintiff has filed above suit against the defendants for partition and separate possession in respect to suit schedule property. The plaintiff is not a member of the joint family and there is no existence of joint family and the suit schedule property is not the joint family property. Further, the plaintiff has not produced any documents to show that she is in joint possession and enjoyment of the suit property. Further, the plaintiff has not stated about the earlier suit filed in O.S.No.595/1989 and without disclosing the earlier compromise in the said suit in the year 1991 after lapse of 32 years has filed the above suit which is barred by law of limitation and hence the suit is liable to be set aside. Further, the plaintiff has to pay the court fee on the market value of the schedule property under Section 35 (1) of K.C.F. & S.V.Act. Further, the entire plaint does not disclose the cause of action and already

partition was taken place with respect to joint family properties hence filing of second suit for partition is not maintainable in law. Hence, on other reasons pray to allow the application.

3. The plaintiffs filed objections to the above application by denying the statement made by the defendants and further contended that the suit schedule properties are the ancestral and joint family properties and the plaintiff and defendant No.1 to 6 are the Hindu undivided joint family members and in joint possession and enjoyment over the same. When the plaintiff demanded for partition, the defendant No.1 to 6 have orally assured to the plaintiff that they will allot her share in the suit properties. But, the defendant No.1 to 6 in collusion with defendant No.7 to 9 got created the documents in their favour without the knowledge and consent of the plaintiff. Hence, the allegations made in the above application is baseless and the trial is required to adjudicate the matter. Hence, prays to reject the application with costs.

4. Based upon the above contentions of the plaintiff and defendants, following points arise for consideration of this court:

1. Whether the defendant No. 1 to 6 have made out sufficient grounds to reject the plaint?

2. What order?

5. Heard the arguments on both sides. On due perusal of the records, the court findings on the above points are as under:

Point No.1 : In the Negative,

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

REASONS

6. **Point No.1:-** The defendant No.1 to 6 have filed the above application for rejection of plaint on the ground that the suit is barred by law and having no cause of action. Further, the court fee paid by the plaintiff is insufficient.

7. In the objections the plaintiff has denied the statement made by the defendants and further taken a specific contention that herself and the defendant No.1 to 6 are in joint possession and enjoyment over the suit property and they are having equal share over the same.

8. The counsel for the defendants argued that the sister of the plaintiff has filed a suit in O.S.No.595/1989 against the plaintiff and defendant No.1 to 6 for partition and such other reliefs. Though the plaintiff is having knowledge about the said suit proceedings the above suit is filed which is barred by limitation and further the plaintiff by suppressing the material facts after lapse of 40 to 50 years the suit is filed which is not having any cause of action. Further argued that as per the reported judgment in **Civil Appeal No.32601/2018** between **Veenitha Sharma V/s Rakesh Sharma and others**, the plaintiff is not a coparcener and within 12 years under Article 109 of Limitation Act the plaintiff ought to have seek partition and question the sale transactions within 3 years under Article 58 of Limitation Act. Therefore, on other grounds prays to reject the plaint with costs.

9. The defendants in support of their application have produced the following citations:

i) The Hon'ble Apex Court reported in (1977) 4 SCC 467 between T.Arivandandam V/s T.V.Satyapal & Anr.

ii) The Hon'ble High Court of Madras reported in CDJ 2003 MHC 1674 between K.K.Swaminathan V/s Srinivasagam.

iii) The Hon'ble Apex Court reported in (2011) 3 SCC 408 between M.Nagabhushana V/s State of Karnataka & Ors.

iv) The Hon'ble Apex Court reported in (2020) 16 SCC 601 between Raghwendra Sharan Singh V/s Ram Prasanna Singh (dead) by L.R's.

v) The Hon'ble High Court of Madras reported in Appeal Suit No.1016/2008 between V.Bakkiyam V/s C.Kandasamy Gounder (dead) by L.R's & Ors.

vi) The Hon'ble Apex Court reported in AIR 2022 SC 4724 between C.S.Ramaswamy V.s V.K.Senthil & Ors.

vii) The Hon'ble High Court of Karnataka reported in ILR 2022 KAR 992 between Smt.Mallamma & Ors. V/s Mallegowda @ Karigowda & Ors.

viii) The Hon'ble High Court of Karnataka reported in 2023 (3) AKR 37 between Rathnamma & Ors. V/s Narrayanappa Muninanjappa & Ors.

ix) The Hon'ble High Court of Karnataka reported in AIR 2024 KAR 323 between Nam Estates Pvt. Ltd., V/s Kulabandhu Ram Adarsh Sharma.

x) The Hon'ble High Court of Karnataka reported in RFA.No.100103/2014 between Prafulla M. Bhat & Ors. V/s Saraswat Shastri & Ors.

xi) The Hon'ble Apex Court reported in SLP.No.4812/2023 between Manjunath Tirakappa Malagi & Anr. V/s Gurusiddappa Tirakappa Malagi (Dead) by his L.R's.

10. The plaintiff in support of her application have produced the following citations:

i) The Hon'ble Apex Court reported in SLP (C)No.16809/2025 between Babasaheb Ramdas Shirole & Ors. V/s Rohit Enterprises & Ors.

ii) The Hon'ble High Court of Karnataka reported in ILR 2022 KAR 4531 between H.S.Deekshit & Anr. V/s M/s Metropoli Overseas Ltd., & Ors.

iii) The Hon'ble High Court of Karnataka reported in CRP.No.158/2020 between Sri.Aswathnarayana V/s Lokesh & Ors.

iv) The Hon'ble High Court of Karnataka reported in RFA.No.1159/2016 between Smt.Muniyamma (Dead) by her L.R's V/s Sri.Narayana Reddy & Ors.

v) The Hon'ble Apex Court reported in Civil Appeal No.1513/2018 between Soumitra Kumar Sen V/s Shyamal Kumar Sen & Ors.

vi) The Hon'ble High Court of Karnataka reported in RFA.No.100264/2016 between Smt.Sonubai & Ors. V/s Smt.Sushila & Ors.

vii) The Hon'ble High Court of Karnataka reported in RFA.No.200046/2018 between Sangramappa V/s Smt.S.Gangamma & Anr.

viii) The Hon'ble High Court of Karnataka reported in W.P.Nos.192-195/2017 between H.Venkataswamy Reddy & Ors. V/s Narayana Reddy & Ors.

11. Therefore, it is relevant to refer the Order 7 Rule 11 of CPC which reads as follows:-

11. Rejection of plaint:- *The plaint shall be rejected in the following cases;*

(a) Where it does not disclose a cause of action;

(b) Where the relief claimed is under-valued and the plaintiff on being required by the court to so 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 the requisite stamp-paper within 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).....

(f).....

12. The remedy under Order 7 Rule 11 is an independent and special remedy which empowers the Court to summarily dismiss the suit at the threshold if it is satisfied that any of the grounds contained in Order 7 Rule 11 is made out. The underlying object of Order 7 Rule 11(a) is that in any suit no cause of action is disclosed or suit is barred by law under Order 7 Rule 11(d), the court would not permit the plaintiff to unnecessarily to protract the proceedings in the suit. Under Order 7 Rule 11, a duty is cast upon the court to determine whether plaint discloses cause of action by scrutinizing the averments made in the plaint read in conjunction with the documents relied upon or whether the suit is barred by any law.

13. Having regard to Order 7 Rule 14 of CPC, the documents filed along with the plaint are required to be taken

into consideration for deciding an application Order 7 Rule 11 of the Code and the Court would determine if the assertions made in the plaint are contrary to the statutory law or judicial dicta and whether a case for rejecting the plaint at the threshold is made out. If on meaningful reading of the plaint it is found that suit is manifestly vexatious and without any merit and does not disclose a right to sue, the court would be justified in exercising the power under Order 7 Rule 11 of the Code.

14. As per the above provision and the ratio laid in the above referred judgments, in order to reject the plaint the court has to consider the averments made in the plaint and it is immaterial to consider the averments made in the written statement. Further, at any stage of the proceedings the court can reject the plaint by invoking the provision of 7 Rule 11 of CPC if the same is barred by limitation or having no cause of action and the court fee paid by the plaintiff is insufficient.

15. On perusal of available records and the documents produced by the plaintiff, she is claiming the relief of partition in respect of suit schedule properties alleging that herself and

defendant No.1 to 6 are in joint possession and enjoyment over the same. Further, taken a specific contention that in O.S.No.595/1989 which was filed by the sister of the plaintiff was dismissed as not pressed wherein they have amicably settled the matter and the plaintiff in the said suit has given assurance that they will give half share in the suit properties in future. But, till this date they have not come forward to allot half share in the suit properties. Therefore, without any alternative this suit is filed.

16. In support of her case she has produced the genealogical tree which is not disputed by the defendants. Further, she has produced the RTC extracts with respect to suit properties, IL and RR extracts along with certified copy of sale deed dated 13-4-2022 which was executed by the defendant No.4 in favour of defendant No.9 with respect to suit item No.23 property.

17. Further, in the suit the plaintiff has not challenged the said sale transactions and also not questioned the earlier transactions which were took place with respect to suit item

No.19 and 20 properties which belongs to the defendant No.7. Further, in the plaint at para No.8 she clearly stated that on 24-5-2023 the cause of action was arisen when the defendants refused to allot half share in the suit schedule properties. Whether the plaintiff is a coparcener and she is having equal share in the suit schedule properties or not it requires a full fledged trial.

18. Furthermore, as per statement made by the plaintiff at para No.5 the earlier suit filed by her sister in O.S.No.595/1989 they gave assurance that they will allot half share in the suit properties in future. But, the same was not complied by the defendants of the said suit. Furthermore, the defendants have also not produced any documents to show that there was an earlier partition between the parties and there is no existence of joint family. Hence, at this stage the defendants have not made out any grounds to allow the application. Therefore, point No.1 is answered in “**Negative**”.

19. **Point No.2** :- In view of the aforesaid findings on point No.1, I proceed to pass the following:

ORDER

I.A.No.5 filed by the defendant No.1 to 6 under Order 7 Rule 11(a), (c) & (d) R/w Section 151 of CPC is hereby rejected.

No order as to costs.

(Dictated to the stenographer, transcribed by her, corrected by me and then pronounced by me in the open court on this the 10th day of April 2026.)

(Arun Kumar.G)
Senior Civil Judge & JMFC,
Hosakote.

