

KABR610112902021



IN THE COURT OF I ADDL. CIVIL JUDGE & JMFC.,
NELAMANGALA.

Dated this the day 2nd day of July, 2026

PRESENT: Sri. Manju.M, B.Sc., L.L.B.,
I Addl. Civil Judge & JMFC.,
Nelamangala.

O.S.No.496/2021

Plaintiffs: 1. Smt Parvatamma
W/o late Muddaiah,
D/o late Huchabyraiah,
Aged about 60 years,

2. Smt shantamma W/o Jayaram,
D/o late Huchabyraiah,
Aged about 42 years,

Both are R/at Sondekoppa village,
Balamaranahalli Road,
Dasanapura Hobli,
Bengaluru North Taluk.

[By Sri K.C.P., Advocates]

V/s

Defendants: 1. Narasimhamurthy,
S/o late Narasimhaiah,
Aged about 60 years,

2. Krishnappa S/o late Narasimhaiah,
Aged about 55 years,
3. Narasimhaswamy S/o late Narasimaiah,
Aged about 52 years,

All are R/at Sondekoppa village,
Balamaranahalli Road,
Dasanapura Hobli,
Bengaluru North Taluk.

[D1 to 4 by Sri B.G.N., Advocate]

PARTIES IN IA NO.3

Applicants/Defendants: Krishnappa and others.

V/s.

Opponent/Plaintiffs: Smt Parvatamma and another.

**ORDERS ON I.A.NO.3 UNDER ORDER 7 Rule 11(a) and
(d) OF CPC.**

This application filed by the applicant/Defendant No.2 under Order 7 Rule 11 (a) and (d) of CPC and prays to reject the plaint as the plaintiffs have no cause of action to file this suit.

2. The defendant No.2 has filed I.A.No.2 and submitted that the land bearing Sy.No.285 measuring 28 guntas out of which 14 guntas originally belonged to one Betta S/o Baira and the said Betta had 3 sons namely Puttaiah,

Byraiah and Gangabyraiah. Further, it is submitted that Sy.No.285 was phoded as Sy.No.285/1, 285/2, 285/3, 285/4 and Sy.No.285/5. The Sy.No.285/1 measuring 2 ½ guntas has fallen to the share of the aforesaid Byraiah and Sy.N.285/5 measuring 4 ½ guntas has fallen to the share of Puttaiah and Gangabyraiah. Further, it is submitted that the executive officer has visited the spot measured the land and prepared the sketch. At that time, 10 feet was reduced in Sy.No.285/1 and shown the extent in feet that is 27 X 83 and has had given katha No.548 in the name of Narasimhaiah. Further, it is submitted that the aforesaid Byraiah had given the said property to his daughter Gangabyamma and katha had been mutated into her name. Further, it is submitted that the father of plaintiffs Huchabyraiah was in possession and enjoyment of 2 ¼ guntas in Sy.No.285/5. Out of 2 ¼ guntas, the father of plaintiffs namely Huchabyraiah for his legal necessities had sold to an extent of 34x22 feet to one S.K.Puttaswamaiah and the remaining extent 36x22 feet

was in possession of Huchabyraiah. Subsequently he had constructed house in his 36x22 feet. Now Huchabyraiah is no more and the plaintiffs being the legal heirs are in possession of the said residential house. Further, it is submitted that the plaintiffs are not in possession of the suit schedule property and the defendants are in possession of the suit schedule property. Further, it is submitted that the plaintiffs have not made out a prima facie case. Further, it is submitted that there is no cause of action to file this suit. Hence, prays to allow the application.

3. On the other hand the plaintiffs have filed objection and contended that one Betta S/o Byra belongs to SC community had acquired the suit property through grant from the government and he was in possession and enjoyment of the suit property. Further, it is contended that after resurvey Sy.No.285 is numbered as 285/1, 285/2 and 285/3 and put the name individually. Further, it is

contended that the Sy.No.281/1 measuring 2 acres ½ guntas had been assigned to aforesaid Betta S/o Baira. Further, it is contended that after demise of plaintiffs father, the plaintiffs are in possession and enjoyment of suit schedule property and constructed small shed house and residing there since last 30 years. Further, it is contended that the defendants having no manner of right, title or possession over the suit schedule property tried to interfere to the possession of the plaintiffs over the suit schedule property. Hence, prays to dismiss the application.

4. Heard arguments of counsel for plaintiff and defendants. Perused the documents available on record.

5. Following points arise for my consideration:

1. Whether the application filed under Order 7 Rule 11(a) and (d) of CPC is deserves to be allowed or not?
2. What order or decree?

6. My findings on the above points are as follows:

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

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

REASONS

7. **Point No.1**: What should be approach of the court while considering the application under Order 7 Rule 11(a) to (d) R/w sec. 151 of CPC has been discussed in the following rulings and it is appropriate to refer the same at this stage;

Saleem Bhai Vs State of Maharashtra, (2003) 1 SCC 557 at page 560:

9. A perusal of Order 7 Rule 11 CPC makes it clear that the relevant facts which need not be looked into for deciding an application there under are the averments in the plaint. The trial court can exercise the power under Order 7 rule 11 of CPC at any stage of the suit---before registering the plaint or after issuing summons to the Defendants at any time before the conclusion of the trial. **For the purposes of deciding an application under clauses (a) and (d) of Rule 11 of Order 7 CPC, the averments in the plaint are germane; the**

pleas taken by the Defendants in the written statement would be holly irrelevant at that stage, therefore, a direction to file the written statement without deciding the application under Order 7 Rule 11 CPC cannot but be procedural irregularity touching the exercise of jurisdiction by the trial court. The order, therefore, suffers from non exercising of the jurisdiction vested in the court as well as procedural irregularity. The High Court, however, did not advert to these aspect.

Madanuri Sri Rama Chandra Murthy Vs Syed Jalal, (2017) 13 SCC 174: (2017) 5 SCC (Civ) 602: 2017 SCC online SC 459 at page 178

7. The plaint can be rejected under Order 7 Rule 11 if conditions enumerated in the said provision are fulfilled. It is needless to observe that Order 7 Rule 11 CPC can be exercised by the court at any stage of the suit. The relevant facts which need not to looked into for deciding the application are the averments of the plaint only. If on an entire and meaningful reading of the plaint, it is found that the suit is manifestly vexatious and merit-less in the sense and not disclosing any right to sue, the court should exercise power under Order 7 Rule 11 CPC. **Since the power conferred on the court to terminate civil action at the threshold is**

drastic, the condition enumerated under Order 7 Rule 11 CPC to the exercise of power of rejection of plaint have to be strictly adhered to. The averments of the plaint have to be read as a whole to find out whether the averments disclose a cause of action or whether the suit is barred by any law. It is needless to observed that the question as to whether the suit is barred by any law, would always depend upon the facts and circumstances of each case. The averments in the written statement as well as the contentions of the Defendants are wholly immaterial while considering the prayer of the Defendants for rejection of the plaint. **Even when the allegations made in the plaint are taken to be correct as whole on their face value, if they show that the suit is barred by any law, or do not disclose cause of action, the application for rejection of plaint can be entertained and the power under Order 7 Rule 11 CPC can be exercised.** If clever drafting of the plaint has created the illusion of a cause of action, the court will nip it in the bud at the earliest so that bogus litigation will end at the earlier stage.

8. In the light of the above law, it is necessary to analysis the plaint averments. The plaintiffs have filed a suit against the defendants for the relief of permanent

injunction in respect of suit schedule property by contending that suit schedule property had been allotted to plaintiffs father and the defendants without having any right, title or possession over the suit schedule property tired to interfere to the possession of the plaintiffs over the suit schedule property. Hence, the plaintiff has constrained to file this suit.

9. Order 7 Rule 11(a) to (f) of CPC empowers the court to reject a plaint where, from the statements made in the plaint itself, the suit appears to be barred by any law and does not discloses any cause of action. The scope of this provision is limited to examining whether, on a meaningful reading of the entire plaint, without any reference to the defence, the suit is exfacie barred. The expression “from the statements in the plaint” is significant, and the court is bound to confine its enquiry to the averments in the plaint alone, without embarking on any factual controversy or requiring evidence at this stage.

10. Therefore, unless the bar of law is apparent on the face of the plaint, the power under order 7 Rule 11 cannot be invoked. It is settled law that mere assertion by the defendants that the plaint may be rejected is not sufficient, the plaint itself must disclose such a bar on its face. If any arguable or triable issues arises, particularly involving mixed questions of fact and law, the rejection of plaint is unwarranted.

11. The fact of the present case is peculiar and merit close examination. The plaintiffs have filed the suit against the defendants seeking a relief of permanent injunction and other reliefs in respect of suit property. The sole contention taken by the defendants is that the plaintiffs have no cause of action to file this suit. It is to be noted that the limitation aspect is a mixed question of facts and law and only on the basis of said contention taken by the defendants is not sufficient to reject the plaint. In light of the categorical stands taken by the plaintiffs in the plaint,

this court is of the considered view that the ingredients of order 7 Rule 11 of the CPC, which empowers the court to reject a plaint, cannot be extended. In order to adjudicate the dispute between the parties, a full fledged trial is required. Hence, this court is proceed to answer **Point No.1 in the Negative.**

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

ORDER

I.A.No.3 filed by the
applicant/Defendants Under Order 7
Rule 11(a) and (d) of CPC is hereby
dismissed.

(Dictated to the Stenographer, transcribed and typed by him, then corrected by me on the computer, signed and then pronounced by me in the open Court on this the 2nd day of July, 2026)

Sd/-
I Addl. Civil Judge & JMFC,
Nelamangala.