



**IN THE COURT OF SENIOR CIVIL JUDGE AND
J.M.F.C., AT CHINTAMANI.**

Dated this the 26th day of March 2026

PRESENT

**SMT. G. GEETHANJALI,
B.A., LL.B.,**

**SENIOR CIVIL JUDGE AND J.M.F.C.,
CHINTAMANI.**

**M.A.No.04/2017
(O.S.No. 246/2011)**

Appellant: T.G. Balaramakrishna,
S/o Late. Govindaiah,
aged about 70 years,
Lakshminilaya,
Halepet,Chintamani.

(By Sri K.R.M., Adv.)

- versus -

Respondent: 1. Sri. K.R.Muniyappa
Since dead by his Lrs.
(i)Smt.N.Umadevi
W/o Muniyappa,
Aged about 65 years.

(ii) K.M.Roopa,
Aged about 42 years,

(iii) K.M.Deepa,
Aged about 40 years,



(iv) Charan Raj,
aged about 35 years,
All are r/o Kaiwara Village
and post,
Chintamani Taluk.

2. Smt. D.P.Archana,
W/o D.S.Praveen,
Aged about 40 years,
Kalikamba Temple,
Street, Chintamani.

**(R-1 By Sri. D.L.P.Adv., and
R-2 By Sri. R.V. Advocate).**

Date of institution of
Miscellaneous appeal : 17-11-2017

Nature of the suit (Suit on
pronote, : Permanent Injunction.
suit for partition,
declaration and
possession, suit for
injunction etc.,)

Date of the commencement
of recording of the evidence: - - - - -

Date on which the judgment
was pronounced : 26-03-2026

Total Duration : Year/s Month/s Day/s
08 04 09

Sd/-

(G. GEETHANJALI)

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



ORDERS

The appellant/plaintiff has preferred this appeal U/O 43 Rule 1 of CPC challenging the order on I.A.No.14 passed by Addl. Civil Judge and JMFC., Chintamani in O.S.No. 246/2011 dated 22-09-2017.

2. The grounds for the appeal are as follows:

The appellant is the defendants and respondent is the Plaintiff's before the trial court.

The trial court ought to have taken note of the fact that in the pleadings of the 1st respondent/plaintiff he had unequivocally alleged that the appellant was a tenant which was denied in the HRC proceedings itself.

The trial court failed to note that the Rent court has dismissed the eviction petition filed by the 2nd respondent When the vendor of 1st respondent holding that the respondent had not produced any material to believe that the appellant is the tenant of the suit premises and consequently directed her to seek declaration



The trial court ought to have taken note of the law of the land that the suit premises is situated in Chintamani city and the provisions of KRC Act are applicable to the suit premises and there was no scope to have entertained the suit for eviction of a tenant so long the alleged land lord prove that the appellant is the tenant of the suit premises.

The 1st respondent who claims atornement of tenancy had one and only one scope to seek declaration that the appellant is the tenant of the suit premises and later if he succeeds in obtaining such a declaration, again he has to go back to Rent court for seeking eviction, but the lower court had not appreciated the legal aspect at all.

The trial court failed to note that there was no scope for the 1st respondent/plaintiff to seek eviction and the suit was not all maintainable as such there was no scope for granting any interlocutory orders much less on IA No.14.

The trial court failed to note that it ought to have dismissed the suit itself instead of doing so, the lower court has considered the IA.14.



The trial court ought to have appreciated the fact the suit for possession against a person who is not a tenant is not maintainable and the point whether a person is a tenant or not would only be considered on the basis of pleadings in the plaint.

The trial court failed to note that the only pleadings of 1st respondent was that the appellant is a tenant and the trial court had no jurisdiction to entertain such a suit.

Facts of the case: the 1st respondent/ plaintiff had filed a suit alleging that the present appellant is the tenant of the suit premises, his vendor, the 2nd respondent Smt. Archana had filed HRC:1/09 against the appellant seeking eviction from the suit premises and the said petition was dismissed holding that the 2nd respondent has not produced any materials to prove that the appellant was the tenant of the suit premises and directed her to seek proper declaration.

The very fact that the 1st respondent/plaintiff had claimed atonement of tenancy and the only course open to



him was to seek declaration as directed in HRC: 1/09. Instead of doing so, the Ist respondent had filed a frivolous suit in OS 246/11.

Though the suit itself was not at all maintainable, and the suit was also not filed within the prescribed period limitation ie. 3 years from the date of knowledge of denial of claimed right by any person..

Thus the suit was not maintainable and the suit was also not in time.

The trial court without properly appreciating the principles of laws of the land, had erroneously partly allowed the IA NO:14 that to when the suit itself was not at all maintainable...

The trial court failed to note that it had no jurisdiction to entertain a suit for eviction as such there was no scope to have allowed any interlocutory application much less IA.14 in part.

3. The respondent has marked his presence through his counsel in pursuance of notice but has not filed any objections. Objection taken as nil.



4. Heard arguments and perused the lower court records.

5. The points that arise for consideration are as follows:

1. Whether the order passed by the lower Court on I.A.No.I is perverse, illegal and capricious?

2. Whether the order passed by the lower Court on I.A.No.I needs interference?

3. What order?

6. The findings on the above points are as follows:-

Points No.1 & 2: In the Negative

Point No.3 : As per the final order,
for the following:

REASONS

7. POINTS NO.1 and 2:- The parties will be referred to their own ranking. These points are taken together for discussion in order to avoid repetition of facts.



8. The first and for most ground urged in this miscellaneous appeal is that, when the suit itself was not at all maintainable, the trial court had no jurisdiction to entertain a suit for eviction as such there was no scope to allow any interlocutory application much less IA.14 in part.

9. And the second ground is, the 1st respondent who claims atonement of tenancy had one and only one scope to seek declaration that, the appellant is the tenant of the suit premises and later if he succeeds in obtaining such a declaration, again he has to go back to Rent court for seeking eviction, but the lower court had not appreciated the legal aspect at all. And remaining grounds urged by the defendant no.1 revolves around afore said two main grounds itself, therefore now let us once again go through the pleadings as well as available materials with analysis of the trial court finding.

10. Herein, as forthcoming from the trial court order, the IA 14 u/o 7 rule 10 filed by the plaintiff was allowed by the trial court by permitting the plaintiff to present the plaint before proper forum which resulted in this



miscellaneous appeal, as already discussed herein the appellant strongly urged ground that there is no scope for considering I.A. 14 by the trial court when the suit for eviction itself is not maintainable . With regard to the same, the trial court while appreciating the fact of the case had repeatedly mentioned about the order passed on IA U/o 6 rule 17 of CPC dated 20-09-2017 based on which the respondent no 1 has brought the above said application , as such it is just and necessary to go through the said order dated 20-09-2017, where the trial court after having heard of the matter allowed the IA u/o 6 rule 17 where the plaintiff sought the relief of declaration of title as being absolute owner of the suit property and delivery of possession by showing market value of the properties as Rs.6,50,000/-.

11. Therefore, it is clear that though earlier the suit has been filed for eviction wherein, the plaintiff later filed necessary application u/o 6 rule 17 and he sought the relief of declaration of title and delivery of possession which resulted in filing of IA No.14 u/o7 rule 10 of CPC as the trial court has no pecuniary jurisdiction in view of order passed on IA u/o6 rule 17 of CPC where the



valuation for suit property shown as 6,50,000/- accordingly the plaintiff has rightly presented the IA 14 for return of the plaint to present the same before proper forum .

12. Further, the defendant who had not challenged the order dated 20-09-2017 he cannot take contention that the suit for eviction itself if not maintainable since it is crucial to note here that , the defendant no.1 though he had earlier brought u/o IA 7 rule 11 of CPC which has been rejected by the trial court against which the defendant no.1 preferred W.P.No.57571/2013(GM-CPC) which has been dismissed 23-03-2017 which has also observed by the trial court in para 27, page no.9 as such the order of Hon'ble High Court in W.P.No.57571/2013(GM-CPC) attained finality and the defendant no.1 again cannot take contention on the same ground of maintainability of suit .

13. The defendant no.1 further urged ground that vendor of the 1st respondent/ plaintiff, the 2nd respondent Smt. Archana had filed HRC:1/09 against the appellant seeking eviction from the suit premises and the



said petition was dismissed holding that the 2nd respondent has not produced any materials to prove that the appellant was the tenant of the suit premises and directed her to seek proper declaration and the plaintiff instead of bringing suit for declaration as per the direction in HRC:1/09 , he had filed a frivolous suit in OS 246/11. Which is not maintainable and in this regard as already discussed all the grievance pertains to maintainability of suit resolved by the Hon'ble High Court of Karnataka in W.P.No.57571/2013(GM-CPC) dated 23-03-2017 which attains finality and again taking similar contention does not sustainable under law .

14. Further , the defendant no.1 urged that the trial court has not considered the legal aspects ,as 1st respondent who claims atonement of tenancy had one and only one scope to seek declaration that the appellant is the tenant of the suit premises and later if he succeeds in obtaining such a declaration, again he has to go back to Rent court for seeking eviction, in this regard the trial court in its order in detail discussed in para 13 about denial of the relationship by the defendant no.1 and



setting up plea of adverse possession and also discussed about framing of issues with respect to proof of absolute ownership of the suit property and further observed that, in that back ground the plaintiff came up with the amendment plaint in compliance of order dated 20-09-2017 and also reproduced the para 10 of statement of objection of the defendant no.1 as given here, “ the trial court is only jurisdiction to decide whether or not he is a tenant and has no jurisdiction to evict the tenant as a property is coming with in the Chintamani limits and rent Act is applicable”

therefore after in detail discussion the trial court rightly come to the conclusion that the trial court have no pecuniary jurisdiction to try the same accordingly allow the application of the defendant no 1 to returned the plaint as such the trial court finding is based on well appreciated fact, provisions of law which does not carry any error to interfere with the trial court findings. Since ,

1) IA 14 u/o 7 rule 10 of CPC is the result of the order dated 20-09-2017 on the application u/o 6 rule 17 of CPC.



2) The plaintiff in a suit for eviction during the pendency of the trial filed application u/o 6 rule 17 of CPC for insert the relief of declaration of title and for delivery of possession which has allowed by the trial court.

3). The order dated 20-09-2017 on the application u/o 6 rule 17 of CPC by the trial court was not challenged by the appellant 1st defendant thus the said order remain unchallenged.

4) The appellant who repeatedly urged ground that suit for eviction is not maintainable , though brought IA u/o 7 rule 11 which has been dismissed on 06-07-2013 and against the same W.P.No.57571/2013 (GM-CPC) though filed on the same was also dismissed on 23-03-2017 as such the defendant no.1 again not permitted to urge his grievance about non maintainability of the suit as the order of Hon'ble High Court of Karnataka in W.P.No.57571/2013 (GM-CPC) dated 23-03-2017 attained finality. Accordingly, I answer the above points in the Negative.



15. Point No.3:- For the above discussed reasons, I
proceed to pass the following;

ORDER

The Miscellaneous Appeal under Order
43 Rule 1 of CPC filed by appellant/plaintiff is
hereby dismissed.

The impugned orders on I.A.No.I passed
by the Addl. Civil Judge and J.M.F.C.,
Chintamani in O.S.No.246/2011 Dated:
22.09.2017 is hereby confirmed.

Parties to bear their own costs.

Send the LCR if any along with copy of
this judgment to the Trial Court for reference.

(Dictated to the stenographer, directly on computer, typed by
him and corrected by me and pronounced in the open Court this the
26th day of March 2026.)

Sd/-
(G. GEETHANJALI)
Senior Civil Judge and
J.M.F.C., Chintamani.