



**IN THE COURT OF SR. CIVIL JUDGE, & JMFC.,AT
SIDLAGHATTA**

Dated this 12th day of June -2026

: **PRESENT:**

SRI. MOHAMMED ROSHAN SHA., MA. L.L.B.,
Sr. Civil Judge & JMFC.,
Sidlaghatta

O.S.328/2022

- PLAINTIFFS** : 1. Smt. Ramakka W/o Ashok
D/o Late Lakshmaiahsetty
Aged about 62 years
R/at Chowdasandra village
Kasaba Hobli
Sidlaghatta Taluk
2. Smt.Sumithramma
W/o Krishnappa
D/o Late Lakshmaiahsetty
Aged about 68 years
R/at Colony Dongara
Devanahalli Town
3. Smt.Jayamma W/o Muniyappa
D/o Late Lakshmaiahsetty
Aged about 70 years
R/at Reddyahalli village
Channarayapatna Hobli
Devanahalli Taluk
4. Smt.Bagyamma
D/o Late Lakshmaiahsetty
Aged about 60 years
R/at Melur village
Jangamakote Hobli
Sidlaghatta Taluk

(Rep by Sri. R.K.M. Adv.)

- V/s -

- DEFENDANT/s :**
1. Sri.Nagarajasetty
S/o. Late Lakshmaiahsetty,
Aged about 78 years
R/at Melur village
Jangamakote Hobli
Sidlaghatta Taluk
 2. Smt.Munilakshamma
W/o Late Veerabhadrappa
D/o Late Lakshmaiahsetty
Aged about 75 years
R/at Abloodu village
Kasaba Hobli
Sidlaghatta Taluk
 3. Smt.Saraswathamma
W/o N.Muniraj
D/o Late Lakshmaiahsetty
Aged about 62 years
R/at Bannimangala village
Kundana Hobli
Devanahalli Taluk
 4. Smt.H.R.Usharani
W/o H.R.Ramakrishnappa
Aged about 68 years
R/at Melur village
Jangamakote Hobli
Sidlaghatta Taluk

(D1 to 3 exparte, Sri. M.M. Adv for D4)

ORDER ON I.A No.3

The defendant No.4 has filed I.A.No.3 under Order 7 Rule 11 (a) and (d) of CPC and seeking to reject the plaint.

2. The applicant/defendant No.4 submit that, the plaintiff has filed suit for Partition and separate possession.

The suit itself is not maintainable and barred by law. There has no such cause action arise against the defendants. During the life time of father of plaintiff by name Lakshmaah Shetty and his son Nagaraj Sehtty have sold suit schedule property in favour of defendant No.4 in the year 1993. Thereafter the said defendants got revenue records and improve the said property. After lapse of 30 years the plaintiff filed suit. Further the plaintiffs have already filed one suit for partition in OS.No.487/2008 against present defendant No.4 and others. The said suit came to be dismissed for non prosecution on 02/02/2012. The said order has not challenged by the plaintiff and without disclosed original cause of action and filed the present suit. The plaintiff known about the transaction held in the 2008 and thereafter filed this previous suit which has dismissed on 02/02/2012. After dismissal order the present suit filed after lapse of 10 years. Hence there has no cause of action and suit itself not maintainable and prays to reject the plaint.

3. Other side the plaintiff has filed objection and denied the contention of the defendant No.4. It has submitted that the IA not maintainable either under law or facts. It has submitted that the suit filed for partition and separate possession. The suit had cause of actin which has been set out in the plaint averments. The suit is not barred by any law. The defendant No.4 has not produced any documents with regard his contention. If the application is allowed the plaintiff would put to great hardship. The plaintiff relied upon the judgment of Madras High Court in Saravana V/s Manju Jyothi Ashramam and jugement reported in (2018) 6 SCC 422 Chhotben and another V/s Keerthi Bhai Jalkrushna Bhai Thakkar and others and also relied judgment reported in (2019)1 Kar.LR 813 (DB) Sangramappa V/s Smt.gangamma and another. Therefore the plaintiff prays to reject the said application.

4. Heard both side. The plaintiff filed written arguments perusal the same.

5. The following points arise for my consideration:

1. Whether the IA.No.3 filed by the defendant No.4 under order 7 Rule 11 (a) and (d) of CPC deserved for consideration?

2. What order?

6. My answers to the above points are as follows:

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

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

R E A S O N S

7. **Point No.1.** The applicant/defendant No.4 submit that, the plaintiff has filed suit for Partition and separate possession. The suit itself is not maintainable and barred by law. There has no such cause action arise against the defendants. During the life time of father of plaintiff by name Lakshmaiah Shetty and his son Nagaraj Sehthy have sold suit schedule property in favour of defendant No.4 in the year 1993. Thereafter the said defendants got revenue records and improve the said property. After lapse of 30 years the plaintiff filed suit. Further the plaintiffs have already filed one suit for partition in OS.No.487/2008 against present defendant No.4 and others. The said suit came to be dismissed for non prosecution on 02/02/2012.

The said order has not challenged by the plaintiff and without disclosed original cause of action and filed the present suit. The plaintiff known about the transaction held in the 2008 and thereafter filed this previous suit which has dismissed on 02/02/2012, after said dismissal order and after lapse of 10 years the present suit has filed. Hence submit that there has no cause of action and suit itself not maintainable and prays to reject the plaint. Other side denied the contention of the defendant No.4. On perusal of the plaint averments the plaintiff filed suit for partition and separate possession to the suit schedule property. Wherein pleaded that a suit in OS.No.487/2008 filed by the defendant No.3 for partition. Further pleaded that the 1st defendant has sold suit schedule property on 12/08/1993. The applicant/ defendant No.4 has produced copy of plaint for OS.No.487/2008 and written statement and order sheet for OS.No.487/2008. Wherein the present plaintiffs and defendant No.2, 3 have jointly filed previous suit in OS.No.487/2008 against present defendant No.4 and others for same suit schedule property. Wherein claiming partition

and separate possession. But the said suit has come to be dismissed for non prosecution on dated 02/02/2012. The plaintiffs did not make any efforts to challenge the said dismissal order. They have filed the present suit against the defendant No.4 and others for same relief after lapse of 10 years, so the plaint averments itself shown that there has already a partition suit filed by the plaintiffs and same dismissed. But the plaintiffs have shown different date of cause action in the present case. There has already a suit filed by the plaintiffs and wherein shown the cause of action but in the present case they have claiming the same relief by showing a false cause of action. Here the defendant No.4 relied upon the judgment of Hon'ble Supreme Court reported **(2020) 7 SCC 366 between Dahiben V/s Aravind Bhai Kalyana ji Bhanusali (Gajra) dead through legal representatives and others** wherein the Hon'ble Apex court held at **Para 23.1 to 23.3 as hereunder that:**

We will first briefly touch upon the law applicable for deciding an application under Order VII Rule 11 CPC, which reads as under:

“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 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 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) where it is not filed in duplicate;

23.2 The remedy under Order VII Rule 11 is an independent and special remedy, wherein the Court is empowered to summarily dismiss a suit at the threshold, without proceeding to record evidence, and

conducting a trial, on the basis of the evidence adduced, if it is satisfied that the action should be terminated on any of the grounds contained in this provision.

23.3 The underlying object of Order VII Rule 11 (a) is that if in a suit, no cause of action is disclosed, or the suit is barred by limitation under Rule 11 (d), the Court would not permit the plaintiff to unnecessarily protract the proceedings in the suit. In such a case, it would be necessary to put an end to the sham litigation, so that further judicial time is not wasted.

8. In view of said observation here the suit of the plaintiff had not disclosed cause of action properly because earlier suit already dismissed and present suit is barred by limitation. The Hon'ble Apex court observed that the cause of action meaning court has to find whether the plaint discloses real cause of action or illusory cause of action created by clever draping -the court must be vigilant against camouflage or suppression and if suit found to be vexatious and on abuse of on process of court, it should

exercised its drastic power under 11 reject the plaint. So the present case the plaintiffs have pleaded illusory cause of action dated 25/10/2022. But in previous suit they have pleaded the different cause of action. So the suit of the plaintiffs is not maintainable and the plaint has liable for reject.

9. Furthermore the sale transaction held between father of the plaintiff and defendant No.4 in the year 1993 through registered sale deed dated 12/08/1993. As per proviso clause under section 6 of Hindu Succession (Amendment) Act 1956 held that ***provided that nothing contained in the sub section shall effect or invalidate any disposition or alienation including any partition or testamentary disposition of property which had taken place before the 20th day of December 2004.*** In view of said proviso clause held that any disposition or alienation including any partition or testamentary disposition of property which had taken place before the 20th day of December 2004 shall not effect the same. The object of the proviso is that ensure that partitions, alienation or

testamentary dispositions which have taken place before the stipulated date or not reopened. In the present case the plaintiffs themselves pleaded that in the year 1993 the registered sale deed the father of the plaintiffs sold the suit schedule property in favour of defendant No.4. Therefore the proviso clause under section 6 of the said Act ensure that the said alienation taken place before the stipulated date and it cannot be reopened. Therefore, the said plaint has liable for reject. Further the counsel for plaintiff filed written arguments and submitted that, the defendant No.4 has not filed any peace of paper to establish her allegation. But the averments of plaint are sufficient to considering the application under order 7 Rule 11 of CPC. The learned counsel for plaintiff relied upon the judgment of Hon'ble Supreme Court reported **(2018) 6 SCC 422 Chhotaben and another V/s Keerthi Bhai jalkrushna Bhai Thakkar and others and submit tht the plaint could not be jrected at the threshold in exersice of power under order 7 Rule 11 of CPC.** Further relied judgment reported in AIR 2019 Gujrat 167 between Prajapathi Ramesh Kumar

Bhagvan Das by Lrs V/s Thakore Jugagimalaji and submit that the on the point of limitation the plaint cannot be rejected at this juncture. Further relied upon the judgment 2019 (1) KAR LR 813 (DB) Sangramappa V/s Smt.S.Gangamma and another and submit that the plaint cannot be rejected at this stage. Perusal the same along with the present case facts and circumstances. The plaintiffs have filed the present suit against the defendant No.4 and others for same relief after lapse of 10 years, so the plaint averments itself shown that there has already a partition suit filed by the plaintiffs and same dismissed. There has already a suit filed by the plaintiffs and wherein shown the cause of action but in the present case they have claiming the same relief by showing a false cause of action and there has no sufficient cause of action to proceed in the matter. Therefore, the judgment relied by the plaintiffs have not aptly applicable to the present case facts and circumstances. Hence the application filed by the defendant No.4 is liable for consideration. For the aforesaid reason and discussion I hold point No.1 answered **Affirmative.**

10. **Point No.2:-** For the aforesaid reason and discussion, I proceed to pass the following: -

O R D E R

**I.A.No.3 filed by the defendant
No.4 under Order 7 Rule 11 (a) and (d)
of CPC is hereby allowed.**

**Accordingly the plaint has
rejected.**

Draw decree accordingly.

(Dictated to the Stenographer directly on computer typed by her, printout revised, corrected and then pronounced by me in the open court on this the 12th day of June 2026)

(MOHAMMED ROSHAN SHA)
Sr. Civil Judge & JMFC.,
Sidlaghatta

