

KACD320014782025



IN THE COURT OF PRL. CIVIL JUDGE AND
JMFC, AT HIRIYUR.

Present:- **Smt. PARVATHAMMA B.,
B.A., LL.M.
Prl. Civil Judge & JMFC,
Hiriyur**

Dated this the 29th day of July - 2026

O.S.No.270/2025

<u>PLAINTIFF/S:</u>		Katappa & Others
	V/S	
<u>DEFENDANT/S:</u>		The Chief Secretary & Others
	I.A.IV	
<u>Applicant :</u>		Kariyanna
(Defendant No.4)	V/S	
<u>Opponent/s:</u>		Katappa & Others
(Plaintiffs)		

1. Provision under which the application is filed	U/o 7 Rule 11(a) & (d) R/w Sec.151 of CPC
2. Relief sought for	Rejection of plaint
3.The date on which the application is filed	29.06.2026
4. Number of the application	IA.IV
5. The date on which the objections are filed by different opponents	19.11.2025
6. The date on which the orders were passed on the said application	29.07.2026

**(PARVATHAMMA.B.)
Prl.Civil Judge & JMFC.,
Hiriyur.**

ORDER ON I.A IV FILED U/O 7 RULE 11(A) & (D)
R/W/SEC.11 OF CPC

The defendant No.4 has filed I.A.IV U/O.7 Rule 11(a) and (d) R/W/Sec.11 of C.P.C praying to reject the plaint as the plaint is barred under law, as the previous suit has been adjudicated between same parties in the best interest of justice and equity.

2. In the affidavit the defendant No.4 stated that the plaintiffs have filed the present suit by suppressing true and material facts only with an intention to harass defendant No.4 and his family members. The plaintiffs are illegally claiming their alleged rights over the suit property as they were already last their legal battle right from trail court to Hon'ble Apex Court. However, the plaintiffs suppressing these facts have once again come up with the present suit is nothing but abuse of process of law. Father of Plaintiff No.1 namely Hotte Chikkappa, father of plaintiff No.2 namely Muthyamappa, father of plaintiff No.3 namely Doddakamappa and others have filed the suit against the father of defendant No.4 and others for the relief of declaration, Injunction and such other reliefs in O.S No.28/1976 on the file of the Civil Judge at Chitrdurga. In the said suit, the claim and contentions of the plaintiffs forefathers that the deity namely Hire Katamma Lingeshwara Devru is belong to Gollara Community as they were managing the affairs of the said temple as Vahivatdars and in that context they sought for permanent injunction against the father of defendants and others. In the said suit the Hon'ble Civil Court after recording the evidence of both the parties perusing the material on record and hearing both the parties was pleased to dismiss the said suit vide its

judgment and decree dt; 21-09-1982. The said persons have preferred an appeal assailing the said judgment and decree of the trial court before the First Appellate Court in R.A No. 42/1989. The Hon'ble First Appellate Court after hearing both parties to the Appeal, was pleased to dismiss said the Appeal vide its judgment and decree dt: 20-04-1994 by confirming the judgment and decree of the Trial Court.

3. The plaintiffs in the said suit O.S. No.28/1976 have once again assailed the said judgments and decree of the courts below as stated supra by filing the Regular Second Appeal on file of the Hon'ble High court of Karnataka in R.S.A No. 889/1994. Even the Hon'ble High Court after perusing the judgments of both the courts below and after hearing parties was pleased to dismiss the said Appeal vide its judgment and decree dt; 15-12-1994, by confirming the judgments of trial court as well as the First appellate court. It is relevant to submit here that, the plaintiffs in O. S. No.28/1976, after having lost their cases from trial court to High court as referred above, they once again approached the Hon'ble Supreme court by filing Special leave Petition in Civil Appeal No.7630/1995 assailing the judgment of the courts below. Even the Hon'ble Apex Court was pleased to dismiss their appeal vide its order dt; 15-05-1995, by confirming the judgments and decree passed by the courts below. The claim and contention of the elders of the plaintiffs family in said suit, that their existence of deity Shree. Hire Katamma Lingeshwara Devaru and such other deities which were referred in the earlier suit as well as in the present suit namely Shree. Hire Katamma Lingeshwara, Shree. Ajjappa, Shree. Thimmappa

and Hosuramma. The said claim and contention had already been negative by the Trial court to Apex Court as stated supra, there is no cause of action accrued to the plaintiffs to file the present suit. In view of the suppression of material facts in respect of suit property and the existence of deity on the schedule property which were held by the courts as stated above, there is no fresh cause of action arose to the suit as it construed and suffice to hold that, the plaint did not disclose any cause of action. In view of the earlier proceedings as referred above, the courts have already held that with regard to the existence of deity i.e. except the deity Shree. Katamma Lingeshwara there are no other deities as claimed by the plaintiffs are not in existence in the suit property. In that view of the matter, the alleged claim and contentions of the plaintiffs that the existence of other deities in the suit schedule property in the present suit is hit by law of Res-judicata". The present suit of the plaintiffs is nothing but abuse of process of law. Hence, the suit is hit by under Order VII Rule 11(d) of CPC., Therefore, the present suit is liable to be dismissed on its threshold as the same is hit by "Law of Res-judicata" and hence, the suit will not survive for consideration by this Hon'ble court and the same is liable to be dismissed.

4. On the other hand counsel for the plaintiffs have filed objection stating that, no relief is claimed against the defendant No.4 in the suit who is made only as formal party. The cause of action is mainly against the defendant No.1 to defendant No.3 who are not made as parties in the previous suit. The subject matter in the previous suit is different from the present suit. It is

pertinent to note that the Hon'ble trial court in O.S. No. 28/1976 framed the following issues in that suit.

- a) do the plaintiffs prove that they are the trustees of the suit temple?
- b) do they prove that the suit temple exclusively belongs to Gollara Community?
- c) do they prove that the defendants interfered with the peaceful management of the temple?
- d) do they defendants prove that there is no deity or temple with the name Hire Katamma Lingeshwara?

5. The above issues are quite different from the issues which would have framed against this defendants in this present suit. The cause of action in the previous suit is not identical with the cause of action of this suit. Hence Res-judicata is not applicable to this suit. In this suit the plaintiffs are claiming permanent injunction against the defendant No.1 to 3 restraining them from interfering with the suit schedule property in which the deities of Hire Katamma, Sri Ajjappa, Sri Thimmappa, Sri Hosuramma are in existence since time immemorial and the plaintiff's ancestors were performing poojas and religious activities having knowledge to the defendants. The plaintiffs in the suit are seeking reliefs against the illegal attempt to evict the above said deities by the defendant No.1 to 3 without due process of law. It is settled position of law that even the trespasser should not be disposed from the rightful owner without due process of law. The plaintiffs have claimed their lawful possession in respect of the suit schedule property against D-1 to D-3 who are Government Servants are attempting to dispossess the deities of Hire Katamma Devaru, Ajjappa

Devaru, Thimmappa Devaru, Hosuramma Devaru on the instigation and colluding with defendant No.4.

6. Further it is submitted, whether the plaint disclose the cause of action are not is question of fact which has to be gathered on the basis of the averments made in the plaint in its entirety and facts averred in the plaint constitutes different cause of action which are not identical with the previous suit. The same requires determination by this Hon'ble court. Hence the power under order 7 rule 11 of CPC cannot be exercised for rejection of the suit. The defendants who were in the previous suit are not defendants in this suit. The subject matter is also different. The cause of action is not identical. When such being the case the Res-judicata is not applicable in this case. Under the above said circumstances the question of rejecting the plaint does not arise at all and the application is filed in gross abuse of process of law. Under the above said circumstances, the application filed by defendant No.4 who has no locus standi to file the application which is not maintainable and same is liable to be dismissed with heavy cost. Hence prayed to reject the application.

7. Heard arguments.

8. On perusal of the pleadings, documents and application, the following points that arise for my consideration are:

1. Whether the defendant No.4 has made out sufficient grounds to allow this I.A. No.IV?

2. What order?

9. My answer to the above points are:

Point No.1 : In the Negative;
Point No.2 : As per the final order,
for the following;

REASONS

10. POINT No.1:- This is a suit filed by the plaintiffs against the defendants for the relief of injunction.

11. In pursuance of the summons, the defendant No.1 to 4 have appeared before the court through his counsel and filed Written Statement. The present application filed by defendant No.4 for rejection of the plaint on the grounds stated in his affidavit.

12. Further it is pertinent to note that, the provision of under Order 7 Rule 11(d) of C.P.C. which reads as follows:-

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, falls 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, falls to do so;**
- (d) where the suit appears from the statement in plaint to be barred by any law;**
- (e) where it is not filed it duplicate**
- (f) where the plaintiff falls to comply with the provisions of rule 9;**

Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-papers shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-papers, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.

It is contended by the counsel for the defendant that, suit is barred by law U/Sec.11 of C.P.C., Here in a suit is for permanent injunction, plaintiffs have to prove their case and possession on the schedule property as on the date of the suit.

13. During the course of arguments counsel for the defendant No.4 has filed list with documents and also decisions of Hon'ble Apex Court Reported in (2020)16 Supreme Court Cases 601, (2020) 7 Surepeme Court Cases 366, ILR 2019 KAR 4739

14. On perusal of the documents furnished by the defendant No.4 I.e, judgment and decree passed by the Civil Judge Chitradurga in O. S. No.28/1976, the plaintiffs are Jogina Katappa, Dodda Kamappa, Muthyamappa, Ganeningappa, Karekamapp, Poojari Shivanna, Hotte Chikkappa, Kariyanna, Dalavayi Poojarana, Sanna Ajjappa, Rangappa S/o Kambanna, Rangappa S/o Eera Dasappa and defendants are Kariyanna, Nijalinga, Donappa, Kamanna, Adavegowda, K. T. Rangaiah, Katappa, Kamanna and L. T. Govnidappa. In the present case on hand the plaintiffs are Katappa, Eranna, Mahanthesh who are not the plaintiffs are the defendants in O. S. No.28/1976. Further, the

defendant No.4 herein is the son of defendant No.1 Kariyanna. Further, on perusal of the the judgment and decree in RA No.42/1989 the parties mentioned there in are not the parties before this Court. Further, on perusal of the judgment and decree in RSA No.884/1994 before the Hon'ble High Court of Karnataka mentioned there in are not the parties before this Court. Further, the principle of res-judicata and also barred by law are to be decided only after the full pledged trial. The cause of action and issues involve in the previous suit and present suit are entirely different and not identical. Hence, the decisions submitted by the counsel for the defendant No.4 is noway helpful to the case of the defendant No.4.

15. Scope of Order 7 Rule 11 is narrow only the plaint is to be examined, not the defence or prior proceedings. Law of Resjudicata requires detailed adjudication as follows:-

- 1) Examination of pleading in the pair suit
- 2) Framing of issues
- 3) Evidence led by both parties
- 4) Finding rendered before the Court.

16. Such complex evaluation cannot be under taken at a summary stage. Hence, Res-judicata is a matter of trial.

This Court relied on the following decisions of Hon'ble Supreme Court of India

1) Srihari Hanumadas Totala Vrs, Hemanth Vittal Kamath & Others (2021) 9 SCC 99.

2) V. Rajeshwari Vrs. T. C. Sharavana bava (2004) 1 SCC 551

3) Keshar Sood Vrs. Kirti Pradeep Sood, Civil appeal No.5841 of 2023.

These authorities affirm that Order 7 Rule 11 cannot be used to prematurely decide Resjudicata. Counsel for the plaintiff also relied one of the decisions of the above.

17. As discussed supra a plea of Resjudicated cannot be a ground to reject a plaint U/order 7 Rule 11 of C.P.C., Such plea must be adjudicated only during trial, after complete consideration of the earlier proceedings. Resjudicata requires judicial scrutiny of earlier proceedings, which can be done during trial. Resjudicata involves factual determination and cannot be decided summarily at the initial stage of rejecting a plaint.

18. The contention raised by the defendant is disputed question of fact and interpretation of law, could not be decided in an application under Order 7 rule 11 C.P.C. The same has to be dealt with at the stage of trial after the parties lead evidence. The scope of application under Order 7 rule 11 CPC is restricted and court has to merely see whether the plaint discloses cause of action as a pure question of fact and it must be found from the simple reading of the plaint. In the instant application, the question resjudicata requires full fledged trial. Therefore, there is no merit in the said contention for rejection of the plaint against the defendant No.4. Hence, the defendant No.4 has failed to make out sufficient grounds to allow this application. **Accordingly, this court answered point No.1 in the Negative.**

19. POINT No.2:- In view of the above discussion, this court proceed to pass the following:-

O R D E R

**IA No.IV filed by the defendant
No.4 U/O.7 Rule 11(a) & (d) R/w Sec.151
of CPC is hereby dismissed.
No order as to cost.**

(Dictated to the Stenographer, transcribed by him, corrected and then pronounced by me in the open Court on this the 29th Day of July - 2026).

**(PARVATHAMMA B.)
Prl.Civil Judge & JMFC.,
Hiriyur.**