

KACM200001042022



IN THE COURT OF SENIOR CIVIL JUDGE,
AT: KADUR

Present:- Sri. IRFAN.

B.A., LL.B.,
Senior Civil Judge & JMFC,
Kadur, Chikkamagaluru District.

Dated: this the 21st day of August – 2025

O.S. No.35/2022

Plaintiffs:-

1. Smt. Sumathi,
D/o Late Janakamma,
W/o Manjunatha,
Aged about 52 years,
2. Smt. Sunitha,
D/o Late Janakamma,
W/o Late Harisha,
Aged about 49 years,

Both are Agriculturists,
R/o Thotadhamane,
Govindapura Road,
Chikkaingala Village,
Birur Hobli, Kadur Taluk.

(By: Sri. M.S. Helawar, Advocate)



V/s

Defendants:-

1. Smt. Vanajakshi,
W/o Late Rangaiah,
Aged about 58 years,
2. Kum: Nikitha,
D/o Late Rangaiah,
Aged about 30 years,
3. Kum: Likitha,
D/o Late Rangaiah,
Aged about 25 years,

All are Agriculturists,
R/o Chatradha Beedi,
Kadur Town at & Post,
Kadur Taluk.

(Defendants No.1 to 3 by: Sri. K.A. Shanthappa /
Sri. D.N. Prakash, Advocates)

RANK OF THE PARTIES ON I.A.NO.V

Applicants/

Defendants

: Smt. Vanajakshi & others.

V/s

Opponents/

Plaintiffs

: Smt. Sumathi & others.

<i>i</i>	<i>Provision under which the application is filed</i>	<i>U/O VII Rule 11(d) R/w Sec.151 of CPC.</i>
<i>ii</i>	<i>Relief sought for</i>	<i>Rejection of plaint.</i>



iii	<i>The date on which the application is filed</i>	<i>26.07.2023.</i>
iv	<i>Number of the application</i>	<i>V</i>
v	<i>The date on which the objections are filed by different opponent</i>	<i>Not filed.</i>
vi	<i>The date on which the orders were passed on the said application</i>	<i>21.08.2025.</i>

When the case is posted for hear on IA No.IV, the defendants have filed this application.

Sd/-

(IRFAN)
Senior Civil Judge,
Kadur.

ORDERS ON I.A.V

This interim application has been filed by the applicants / defendants, U/O VII Rule 11(d) R/w Sec.151 of CPC seeking to reject the plaint.

2. This application is accompanied by an affidavit filed by the 1st defendant herself and on behalf of defendants No.2 and 3. On reference to the affidavit annexed to this IA, it is noticed that the applicants / defendants in their affidavit have sought for the rejection of plaint mainly on the grounds that the present suit is barred by principles of Res-judicata,



since the matter in controversy has already been adjudicated in suit proceedings under OS No.441/2014 on the file of 1st Addl. Civil Judge and JMFC, Kadur and under OS No.242/2009 on the file of Prl. Civil Judge and JMFC, Kadur. It is contended that the plaintiffs herein are claiming through and under one Smt.Janakamma against whom, the aforesaid decrees are passed on the same subject-matter and it is claimed that since the plaintiffs are claiming rights under Smt.Janakamma, the present suit is barred by principles of Res-judicata and accordingly, sought to reject the plaint.

3. The plaintiffs have not filed any objections to this application.

4. Heard arguments of Sri. D.N.P. for applicants / defendants and perused the documents along with this IA.



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

1. Whether the suit appears from
the statement in the plaint is
barred by law?

2. What order?

6. The above points are answered as follows:

Point No.1 -In the Negative;

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

REASONS

7. **Point No.1:-** The present suit is filed seeking for the relief of declaration of their ownership over the suit schedule properties based on alleged diary entry, General Power of Attorney dated 02.06.2008 and Will dated 31.07.2008 and for consequential reliefs. The defendants under this application have sought for the rejection of plaint based on the principles of Res-judicata. According to them, the plaintiffs are claiming



their rights under Smt.Janakamma based on alleged Will and GPA referred above and since the said aspect has already been determined in suit proceedings under OS No. 242/2009 and OS 441/2014, the said aspect cannot be re-agitated and same is barred under the principles of Res-judicata. At this stage, it is just to refer a judgment relied upon by the opponent/plaintiff between ***Sri.Hanumandas Totala V/s Hemanth Vittal Kumar and others under Civil Appeal No.4665/2021 dated 09.08.2021***, wherein, the Hon'be Supreme Court of India while considering the applications filed under Order 7 Rule 11(a) and (d) of CPC was pleased to hold as follows;

“ 20. On a perusal of the above authorities, the guiding principles for deciding an application under Order 7 Rule 11(d) can be summarized as follows;

(I) To reject a plaint on the ground that the suit is barred by any law, only the averments in the plaint will have to be referred to.



(ii) The defence made by the defendant in the suit must not be considered while deciding the merits of the application;

(iii) To determine whether a suit is barred by Res-judicata, it is necessary that (I) the 'previous suit' is decided, (ii) the issues in the subsequent suit were directly and substantially in issue in the former suit, (iii) the former suit was between the same parties or parties through whom they claim, litigating under the same title; and (iv) that these issues were adjudicated and finally decided by a court competent to try the subsequent suit and

(iv) Since an adjudication of the plea of Res-judicata requires consideration of the pleadings, issues and decision in the 'previous suit', such a plea will be beyond the scope of Order 7 Rule 11(d), where only the statements in the plaint will have to be perused”.

In view of aforesaid findings, the aspect of Res-judicata needs to be determined under separate inquiry and the same cannot be considered under this application for rejection of plaint. Thus, the present application is devoid of merits and same is liable to be dismissed. Accordingly, the **point No.1 under consideration is answered in the Negative.**



8. **Point No.2** :- In view of the discussions in foregoing points, the following;

ORDER

IA No.V filed by the
applicants / defendants, under
Order VII Rule 11(d) R/w Sec.151
of CPC is dismissed.

No order as to cost.

(Dictated to the Stenographer on computer, corrected, initialed and then pronounced by me in open Court on this the 21st day of August, 2025)

Sd/-
(IRFAN)
Senior Civil Judge,
Kadur.

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