

KACM200006792025



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 26th day of February – 2026.

O.S. No.271/2025

Plaintiff:-

Smt. Pushpa U.B.,
D/o U.H. Basvegowda and
A.C. Anasuya,
Age: 57 years,
R/at Flat No. B 31, No.11,
Tallam Residency,
Serpentine Road,
Next to SBI Bank,
Kumara Park,
Bangalore – 560 020.

(By: Sri. G. Manukumar, Advocate)

V/s

Defendants:-

1. Sri. A.C. Prabhu Rajshekar,
S/o Late A.C. Chandre Gowda,



Age: 79 years,
R/at No.7F, Crescent Court,
Crescent Road, High Grounds,
Bangalore – 560 001.

2. Sri. A.P. Pavan Chandra,
S/o Late A.C. Prabhu Rajshekar,
Age: 55 years,
R/at Huligere, Kadur Taluk,
Chikkamagaluru District –
577 138.
3. Sri. A.P. Kiran Chandra,
S/o Late A.C. Prabhu Rajshekar,
Age: 49 years,
R/at Huligere, Kadur Taluk,
Chikkamagaluru District –
577 138.
4. Smt. Arathi Sharat Kumar
@ A.P. Arathi,
D/o Late A.C. Prabhu Rajshekar,
W/o Sharat Kumar,
Age: 54 years,
R/at No.265, 17th Cross,
Sadashivanagar,
Bangalore North,
Bangalore-560 080
5. Sri. A.C. Niranjan,
S/o Late A.C. Chandre Gowda,
Age: 74 years,
R/at Huligere Estate,
Huligere Post,
Kadur Taluk,



Chikkamagaluru District -
577 101.

6. Sri. A.N. Chandan,
S/o A.C. Niranjana,
Age: 47 years,
R/at Huligere Estate,
Huligere Post, Kadur Taluk,
Chikkamagaluru District -
577 101.
7. Sri. A.N. Charan,
S/o A.C. Niranjana,
Age: 44 years,
R/at Huligere Estate,
Huligere Post, Kadur Taluk,
Chikkamagaluru District -
577 101.
8. Smt. A.C. Rathnamma,
W/o H.B. Lokeshwar,
D/o late A.C. Chandre Gowda,
Since dead, represented by
her legal heirs.
- 8(a) Smt. Soubhagya B.L.,
D/o H.B. Lokeshwar and
A.C. Rathnamma,
Age: 70 years,
R/at Sowbhagya Estate,
Handli Estate,
Somarpeta,
Kodagu District - 571 236.



- 8(b) Sri. Sharath Kumar B.L.,
S/o H.B. Lokeshwar and
A.C. Rathnamma,
- 8(c) Sri. Jayachandra B.L.,
S/o H.B. Lokeshwar and
A.C. Rathnamma,
9. Smt. A.C. Anasuya,
W/o U.H. Basvegowda,
D/o late A.C. Chandre Gowda,
Since dead, represented by
her legal heirs.
- 9(a) Smt. U.B. Nandini,
W/o Dr. Harsha,
D/o U.H. Basvegowda,
Age: 65 years,
R/at 253, 15th main,
RMV Extension,
Bangalore – 560 080.
- 9(b) Smt. U.B. Sumathi,
D/o Smt. A.C. Anasuya,
Age: 63 years,
R/at 11, Tallam residency,
Kumar Park West,
Bangalore – 560 020.
10. Smt. A.C. Shashimukhi,
W/o B.K. Jagadish Chandra,
D/o A.C. Chandre Gowda,
Since dead, represented by
her legal heirs.



- 10(a) Smt. B.J. Madhumathi,
W/o A.S. Shankargowda,
D/o B.K. Jagadish Chandra,
Age: 55 years,
R/at 379/9, 6th A Cross,
13th main, RMV Extension,
Sadashivnagar,
Bangalore – 560 080.
- 10(b) Sri. B.J. Manu,
S/o B.K. Jagadish Chandra,
Age: 53 years,
R/at #458, 11th Main,
RMV Extension,
Sadashivnagar,
Bangalore – 560 080.
11. Smt. A.C. Poornima,
W/o C.R. Renukardhya,
D/o late A.C. Chandre Gowda,
Age: 72 years,
R/at 66, Railway Parallel Road,
Kumara Park West,
Bangalore – 560 020.
12. Smt. C.R. Babitha,
W/o Rakesh Uppini,
D/o C.R. Renukardhya,
Age: 49 years,
R/at Flat 7A,
Crescent Court Apartments,
Crescent Road, High Grounds,
Bangalore – 560 001.
13. Smt. C.R. Anitha,



W/o A.C. Chandrasaha,
D/o C.R. Renukardhya,
Age: 45 years,
R/at 66, Railway Parallel Road,
Kumara Park West,
Bangalore – 560 020.

14. Smt. C.R. Kavitha,
D/o C.R. Renukardhya,
Age: 47 years,
R/at 66, Railway Parallel Road,
Kumara Park West,
Bangalore – 560 020.
15. M/s Himalaya Wellness
Company, A company registered
under the Indian Companies
Act, 1956, Having its Principal
place of business at Makali,
Tumkur Road,
Bengaluru – 562 123.
Represented by its GPA holder -
Smt. Jayashree Ullal,
D/o Dayananda Ullal.

(Defendants No.1, 3 and 4 by: Sri. Hareesh Singatagere,
and Sri. Hemaraj T, Advocates)

(Defendant No.2 - Exparte)

RANK OF THE PARTIES ON I.A.NO.II & III

Applicant/
3rd defendant : Sri. A.P. Kiran Chandra.



V/s

Opponent/
Plaintiff : Smt. Pushpa U.B.

<i>i</i>	<i>Provision under which the applications are filed</i>	<i>U/O VII Rule 11(a) of CPC and U/O VII Rule 11(d) of CPC</i>
<i>ii</i>	<i>Relief sought for</i>	<i>Rejection of plaint.</i>
<i>iii</i>	<i>The date on which the applications are filed</i>	<i>19.12.2025.</i>
<i>iv</i>	<i>Number of the applications</i>	<i>II & III</i>
<i>v</i>	<i>The date on which the objections are filed by different opponent</i>	<i>06.01.2026.</i>
<i>vi</i>	<i>The date on which the orders were passed on the said application</i>	<i>26.02.2026.</i>

When the case is posted to file written statement and objections of defendants No.1, 3 and 4 finally, the defendants No.1, 3 and 4 have filed these applications.

COMMON ORDERS ON I.A.II & III

These interim applications have been filed by the applicants / defendant No.1, 3 and 4, U/O VII Rule 11(a) and U/O VII Rule 11(d) of CPC seeking for rejection of the plaint against him on the grounds that there is no cause of action and suit is barred by law of limitation, in the interest of justice and equity.



2. These applications are supported by memorandum of facts filed by learned counsel for the defendants. The sum and substance of application averments are that the plaintiff has filed this suit with an evil intention of making wrongful gain, she has got created the story of existence of Hindu undivided family, which was severed in the year 1965 itself. The daughters of late A.C. Chandre Gowda were not at all treated as co-paceners as on the date of filing of the suit or even after the amendment of Hindu Succession Amendment Act. The plaintiff has filed this suit without there being any cause of action by only taking undue advantage of inadvertent mistake of the drafts-man of the deed bearing document NO. KDR-1-00347-2007-08 dated 11.05.2007. The plaint is cleverly drafted to create illusion of cause of action. The plaint averments itself establishes that there was already a partition of Hindu undivided family of late A.C. Chandre Gowda on



16.09.1965 itself and the respective sharers are enjoying their sharers independently. The said partition deed was acted upon and accordingly, a settlement deed dated 06.02.1973 was also got executed. If the partition deed dated 16.09.1965 was not at all acted upon as contended by the plaintiff, there was no occasion for the execution of settlement deed dated 06.02.1973. The drafts-man of document dated 11.05.2007 had erroneously drafted the said deed as partition deed instead of mentioning the same as sale or convenience deed. The plaintiff's mother during her life time had never raised her voice disputing the partition effected amongst the Hindu Undivided Family of late A.C. Chandre Gowda. There was no allegation of coercion or fraud. There is huge gap of about 60 years and no one have objected for the partition effected in the year 1965. The mother of plaintiff demised in the year 2014 and since the date of execution of alleged



partition deed dated 11.05.2007 till the date of death of plaintiff's mother, there was no objections raised whatsoever. The instant suit is filed after lapse of about 18 years and same is hopelessly barred by limitation. Hence, it is sought to reject the plaint.

3. These applications have been resisted by the plaintiff vide detailed common objections wherein all the application averments have been denied as false and frivolous. It is specifically asserted that the prayer under the instant suit is not only for partition and separate possession and same also includes the relief regarding the declaration of partition deed dated 16.09.1965, settlement deed dated 06.02.1973, partition deed dated 11.05.2007 as null and void. The plaintiff has categorically pleaded that the partition deed of the year 1965 and settlement deed of the year 1963 were never acted upon. The partition deed of the year 2007 was executed through fraud and coercion



without the participation of all the joint family members. The aspect of limitation is not applicable to the case on hand, however, the same is subject-matter of trial and the plaint cannot be rejected on the sole ground of limitation. In the plaint, there is a clear disclosure of cause of action, the plaintiff has also caused legal notice to the defendants in the year 2024. The contentions of the plaintiff are required to be determined after a full fledged trial and at this stage, the plaint cannot be rejected. Accordingly, sought to dismiss the applications.

4. Heard Sri.MG, Advocate for plaintiff and Sri. HS for defendants No.1, 3 and 4.

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

1. Whether plaint averments disclose a real cause of action?



2. Whether the suit appears from the statement in the plaint is barred by any law?
3. What order?
6. The above points are answered as follows:
 - Point No.1 -In the Affirmative;
 - Point No.2 -In the Negative;
 - Point No.3 -As per final order, for the following;

REASONS

7. **Points No.1 & 2:-** These points are taken together for common discussion to avoid repetition of facts.

The plaintiff has instituted this suit for the relief of partition and separate possession claiming her 1/18th share in the suit schedule properties apart from claiming the relief of declaration of partition deed dated 16.09.1965, settlement deed dated 06.02.1973 and partition deed dated 11.05.2007 as null and void. As per the plaint averments, the aforesaid partition



deed dated 16.09.1965, settlement deed dated 06.02.1973 were not acted upon and the partition deed dated 11.05.2007 is the product of fraud and coercion.

8. It is found necessary to refer a land mark judgment of Hon'ble Supreme court of India reported in **(1977)4 CC 465 between T.Aravindam V/s Sathyapal and another**, wherein the Hon'ble Supreme Court of India was pleased to hold as follows;

“The trial court must remember that if on a meaningful-no formal-reading of the plaint it is manifestly vexatious and merit less in the sense of not disclosing a clear right to sue, it should exercise its power under Order |VII Rule 11 of CPC taking care to see that the ground mentioned therein is fulfilled. If clever drafting has created the illusion of a cause of action, the court must nip it in the bud at the first hearing by examining the party



searchingly under Order X of CPC.

-----”

9. It is also found necessary to refer a judgment reported in **(2020) 7 SCC 366 between Dahiben V/s Aravindbhai Kalyaniji Bhanusali (Gajra) Dead through Legal representatives and others**, wherein it is held as follows;

“ C.Civil Procedure Code, 1908- Or.7 rule 11 (a) – Cause of action-Meaning-Court has to find whether plaint discloses real cause of action or illusory cause of action created by clever drafting -Court must be vigilant against camouflage or suppression and if suit found to be vexatious and an abuse of process of court, it should exercise its drastic power under R.11 to reject the plaint-Words and phrases-Cause of action”

10. It is also just to refer a judgment 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”.



11. The respective counsel have also relied upon several judgments and more or less those judgments also considered the principles as enumerated above. In order to consider the application filed U/O VII Rule 11 of CPC, it is only the plaint averments and the documents produced along with the plaint are relevant and any amount of defence set-up by the defendants cannot be considered at this stage. What is required to be considered is whether a meaningful reading of the plaintiff discloses a cause of action for the institution of the suit. In order to determine the said aspect, the plaint shall be read as a whole by considering the pleadings with its literal meaning. It has been alleged in the plaint that the alleged partition deed of the year 2007 is the product of fraud and coercion played upon the mother of plaintiff by name Smt. A.C. Anusuya. If the plaint is read as a whole, there is also a specific contention raised by the plaintiff that apart from the



properties mentioned in the partition deed of the year 1965, settlement deed dated 06.02.1973 and partition deed of the year 2007, there are several other joint family properties available for partition, which are contended to be not divided amongst all the joint family members. If all the aforesaid aspects are taken into consideration, it is crystal clear that a clear cause of action disclosed by the plaintiff to institute the instant suit. Of-course, the cause of action is a bundle of facts and the plaint clearly discloses the cause of action if read as a whole. As far as the aspect of limitation is concerned, it is contended under the applications that there has been 60 years passed since the date of execution of partition deed of the year 1965 and same has been acted upon and on its basis, the settlement deed was also executed in the year 1973 and subsequently, a document was executed in the year 2007, which was in-fact sale or re-conveyance deed,



but due to mistake of the drafts-man, same was mentioned as partition deed. In the plaint, there is allegations of duress, fraud and coercion against plaintiff's mother Smt. A.C. Anusuya and all those aspects are required to be determined after a full fledged trial. There is nothing in the plaint, which demonstrates that the plaint is ex-facie barred by limitation. Even if the aspect of limitation is taken to be considered, but the plaint cannot be rejected as the plaintiff has also sought for the relief of partition of the left over alleged joint family properties. Thus, in consideration of the plaint averments coupled with documents filed therewith, a clear cause of action is disclosed and as far as limitation aspect is concerned same being the mixed question of fact and law, is required to be determined after trial. Thus, no sustainable grounds are made out to reject the plaint on the grounds of limitation and cause of action.



Accordingly, **the point No.1 under consideration is answered in the Affirmative and point No.2 under consideration is answered in the Negative.**

12. **Point No.3** :- In view of the discussions in foregoing points, the following;

ORDER

IA No.II & III filed by the applicants / defendants No.1, 3 and 4, under Order VII Rule 11(a) of CPC and under Order VII Rule 11(d) of CPC are dismissed.

No order as to costs.

(Dictated to the Stenographer on computer, corrected, initialed and then pronounced by me in open Court on this the 26th day of February, 2026)

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