



**IN THE COURT OF THE PRL. CIVIL JUDGE AND JMFC.,**  
**MUDIGERE**

**Present:** **Sri. Vishwanath A.,** B.B.A., L.L.B.  
Prl. Civil Judge & JMFC.,  
Mudigere.

**DATED: THIS THE 22<sup>nd</sup> DAY OF FEBRUARY 2025**

**ORIGINAL SUIT No: 77/2020**

**BETWEEN :**

Zia-Ur-Rehaman,  
S/o late P. Fazlur Rehaman,  
Aged about 70 years,  
R/o K.M Road, Hand Post,  
Mudigere Town & Post,  
Mudigere Taluk.

... Plaintiff

**(By Sri. Siddaiah.D, Adv.,)**

**AND :**

Ubed-Ur Rehaman,  
S/o late Fazluru Rehaman,  
Aged about 60 years,  
R/o J.M Road,  
Mudigere Town & Post,  
Mudigere Taluk.

...Defendant

**(By Sri.B.A.Suresh, Adv.,)**

**PARTIES TO IA.No.6**

**BETWEEN :**

Zia-Ur-Rehaman

...Applicant

**AND :**

Ubed-Ur Rehaman

...Opponent



|          |                                                                       |                                                       |
|----------|-----------------------------------------------------------------------|-------------------------------------------------------|
| <b>1</b> | <b>Provisions under which the application is filed</b>                | <b>Under Order VII Rule 11 R/w section 151 of CPC</b> |
| <b>2</b> | <b>Relief sought for</b>                                              | <b>Rejection of plaint</b>                            |
| <b>3</b> | <b>The date on which the application is filed</b>                     | <b>03.09.2024</b>                                     |
| <b>4</b> | <b>Number of the application</b>                                      | <b>6</b>                                              |
| <b>5</b> | <b>The date on which the objection filed by opponents</b>             | <b>07.01.2025</b>                                     |
| <b>6</b> | <b>The date on which the order was passed on the said application</b> | <b>22.02.2025</b>                                     |

**(Vishwanath A.)**  
Prl. Civil Judge & JMFC,  
**Mudigere.**

### **ORDERS ON I.A.NO.VI**

The defendant has filed the present application during the stage of cross examination of PW1. The present application is filed under Order 7 Rule 11 R/w Section 151 of CPC seeking rejection of plaint.

**2.** In the affidavit accompanied to the present application, the defendant has contended that the plaintiff had filed a suit for partition of suit portieres, in O.S. No.136/2016 on the file of Hon'ble Senior Civil Judge, Mudigere, and the said suit came to be dismissed. An appeal preferred against the said judgment and decree before the Hon'ble District Judge, Chikkamagaluru, is also



dismissed. Then the plaintiff has preferred second appeal before the Hon'ble High Court of Karnataka, and the said second appeal is pending consideration. This being the case, the plaintiff has filed this suit and also another suit in O.S. No.94/2020 by suppressing the real facts and hence the present suit is not maintainable under the principle of res-judicata. In the earlier suit, the plaintiff had valued the suit properties at Rs.,7,50,000/- and now in the present suit, the same is undervalued. On the above grounds, the defendant has sought for rejection of plaint.

**3.** On the other hand, the plaintiff has filed statement of objections to the present application contending that the above suit is for bare injunction and O.S. No. 94/2020 is for declaration to declare that the partition deed dated 20.03.2015 is null and void and consequential injunction. The suit properties of this suit is different from that of O.S. No.94/2020. The suit in O.S. No. 136/2016 filed by the plaintiff seeking partition, is pending before the Hon'ble High Court of Karnataka. The reliefs sought in the said suit is different from that prayed in this suit. Since this suit is for bare injunction, the plaintiff has valued the suit on basis of the relief. The defendant has come up with the present application after his application seeking clubbing this suit with O.S. No.94/2020 came to be rejected. The above application has no grounds to sustain. On these averments, the plaintiff has sought for rejection of the present application.

**4.** In view of the above rival contentions of both the parties, the following points do arise for consideration:



**1. Whether the defendant has made out sufficient grounds to reject the plaint as sought for?**

**2. What order?**

**5.** Heard both side and also perused entire materials on record. Now, the findings of this Court on the above points are as follows.

Point No.1 : **In the Negative,**

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

**REASONS**

**6. Point No.1:** This is an application filed seeking rejection of plaint on the ground that the plaintiff's claim regarding partition of suit properties came to be dismissed by the Hon'ble Senior Civil Judge, Mudigere, affirmed by the first appellate court and the second appeal is pending consideration and hence this suit is hit by res-judicata. Defendant has also contended that the suit is undervalued as the very properties were valued at Rs.7,50,000/- in the previous suit for partition. On the other hand, the plaintiff has contended that the relief sought for in the respective suits are separate and distinct and the present suit is valued on basis of relief. Before advertng to the other aspects, this Court finds it necessary to look into as to on what grounds, the plaint can to be rejected. Thus, it is germane to refer order 7 Rule 11 of CPC;



*"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 returned 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;]*

*(f) where the plaintiff fails 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-paper 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-paper, 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.]"*

On careful reading of the above provision of law, it could be understood that the plaint can only be rejected on the grounds provided under Rule 11(a) to (f) i.e., for non-disclosure of cause of action, or for not making good the deficit valuation, or if the plaint is insufficiently stamped, or if the suit is barred by law, or if the plaint is not filed in duplicate, or if the plaintiff fails to take steps as required under order 7 Rule 11 of CPC.

**7.** It is relevant here to rely on the decision of the Division Bench of Hon'ble High Court of Karnataka in the case of **Smt. Mallamma and Others V/s Shri Mallegowda @ Karigowda**



**and Others** reported in **ILR 2022 KAR 992** wherein relied on the decision of Hon'ble Apex Court in the case of **Dahiben V/s Aravind Bai Kalyanji Bhanusali** reported in **(2020) 7 SCC 366** wherein propositions of law is laid down with respect to Order 7 rule 11 of CPC, that while deciding the applications under Order 7 rule 11 of CPC, Courts have to scrutinize the plaint averments in conjunction with the documents relied upon or whether the suit is barred by law and also whether the assertions made in plaint are contrary to statutory law or judicial dicta.

**8.** Keeping in view the above provision of law and decision referred supra, if the grounds urged in support of present application is looked into, the defendant has specifically contended that the plaintiff's suit is hit by res-judicata, the suit is undervalued and thus the plaint deserves to be rejected. It is now a settled possession of the law that the averments of plaint and the documents relied by the plaintiff shall only be considered while deciding the applications filed under Order VII Rule 11 of CPC. In this background, if the plaint averments are carefully looked into, even the plaintiff has also stated about his suit for partition in O.S. No.136/2016 which came to be dismissed and against the said judgment and decree, second appeal is pending consideration before the Hon'ble High Court of Karnataka.

**9.** This is a suit for bare injunction wherein the plaintiff claims to be in possession of suit properties and alleged obstruction by the defendant. Hon'ble Apex Court in the case of **Keshav Sood Vs Kirti Pradeep Sood & Ors** in **2023 LiveLaw (SC) 799** has held



that the issue of res-judicata cannot be decided on an application under Order 7 rule 11 of CPC, as the same requires consideration of the pleadings in the earlier suit. This apart, whether the suit is valued properly or not requires an answer to the issue in that regard. Hence, both the grounds urged by the defendant one about res-judicata and another about valuation of suit, does not fulfill the requisites of the things provided under Order 7 rule 11 of CPC to reject the plaint. Therefore, the present application being devoid of merit, requires to be rejected and hence, point No.1 is answered in '**Negative**'.

**10. Point No.2:** In view of the above findings on point No.1, this Court proceed to pass the following:

**ORDER**

**IA.No.VI filed by the defendant  
under Order VII Rule 11 R/w Section  
151 of CPC is rejected.**

**For cross examination of PW1  
by: 12.03.2025.**

(Dictated to the Stenographer, typed by him on computer, corrected and then pronounced by me in the open court on this the **22<sup>nd</sup> day of February, 2025**).

**(Vishwanath A.)**  
Prl. Civil Judge & JMFC.,  
**Mudigere.**