



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

Present: Sri. Vishwanath A., B.B.A., L.L.B.
C/c Addl. Civil Judge & JMFC.,
Mudigere.

DATED: THIS THE 25th DAY OF NOVEMBER 2024

ORIGINAL SUIT No: 119/2021

BETWEEN :

Surendra,
Aged about 34 years,
S/o Late Subramanya V.,
R/o # 91/1, Munireddy Building,
Singasandra, Anekal,
Bengaluru – 560 068.

Represented by his G.P.A. Holder

R. Vishnu,
Aged about 30 years,
S/o R. Raghu,
R/o Samse Tea Estate,
Samse Village and Post,
Kalasa Hobli, Mudigere Taluk,
Chikkamagaluru District.

... *Plaintiff*

(By Sri. B.T. Nataraj, Adv.,)

AND :

- 1.** Kumara,
Aged about 40 years,
S/o George.
- 2.** Vijay,
Aged about 40 years.



R/o Pathi Gudde,
Samse Village and Post,
Kalasa Hobli, Mudigere Taluk,
Chikkamagaluru.

...Defendants

(By **Sri.H.B. Shamanna, Adv.,**)

PARTIES ON I.A.NO.XIII

BETWEEN :

Kumara & Anr

... Applicants

AND :

Surendra

...Opponent

i	Provision under which the application is filed	Order VII Rule 11 R/w Sec. 151 of CPC
ii	Relief sought for	Rejection of plaint
iii	The date on which the application is filed	04.11.2023
iv	Number of the application	XIII
v	The date on which the objections are filed by different opponents	21.08.2024
vi	The date on which the orders were passed on the said application	25.11.2024

(Vishwanath.A)
C/c Addl. Civil Judge & JMFC,
Mudigere.



ORDERS ON I.A.NO.XIII

The defendants have filed the present application during the stage of plaintiff evidence. The present application is filed under Order 7 Rule 11 of CPC seeking rejection of plaint.

2. In the affidavit accompanied to the present application, the defendant No.1 for himself and on behalf of defendant No.2 has contended that the plaintiff has filed the suit on basis of GPA executed by him in favour of Vishnu. As per the plaintiff, the suit property is in the name of Subramanya S/o Vasu. The said Subramanya is dead. Thus, the plaintiff who has got no khatha with respect to the suit property, has no right to execute the GPA. The GPA executed by the plaintiff in favour of Vishnu is against the law and thus, the plaint submitted by the plaintiff through his GPA holder is liable to be rejected. On these averments, the defendants have sought for rejection of plaint.

3. On the other hand, the plaintiff has filed statement of objections to the present application contending that the present application is not maintainable, highly belated and filed only to drag the proceedings. The defendants have filed the present application after availing so many adjournments. There are no merits in the present application. On these averments, the plaintiff has sought for rejecting 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 defendants have made out sufficient grounds to reject the plaint as provided under Order VII Rule 11 of CPC?

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 the application filed seeking rejection of plaint on the ground that the plaintiff has got no right to execute GPA as he has got no khatha with respect to the suit property. 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. The sole ground urged in support of present application is that the plaintiff has got no right to execute GPA with respect to the suit property and thus, the plaint filed through the GPA holder, deserves to be rejected. It is now a settled possession of the law that the averments of plaint and the document 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, the plaintiff has contended that he is the owner in possession of the suit property and he has also alleged interference



by the defendants with respect to the suit property. The plaint does disclose the cause of action and also that the suit is properly valued on basis of its relief.

7. This Court places its reliance 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. Keeping in view the decision referred supra, if the sole ground urged in support of the present application is looked into, the same does not fit in to any of the grounds provided under Order 7 Rule 11 of CPC. This Court finds nothing to reject the plaint. This is a suit injunction wherein the plaintiff has asserted his possession over the suit property, but the same is denied by the defendants. Whether or not the plaintiff is in possession of the suit property and whether or not he has right to execute GPA, are matters of trial. Therefore, the present application being devoid of merits, requires to be rejected and hence, point No.1 is answered in '**Negative**'.



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

ORDER

**IA.No.XIII filed by the
Defendants under Order VII Rule 11
of CPC is rejected.**

**For plaintiff evidence by:
09.12.2024.**

*(Dictated to the stenographer, typed by him on computer, corrected and then pronounced by me in the open court on this the **25th day of November, 2024**).*

(Vishwanath.A)
C/c Addl. Civil Judge & JMFC,
Mudigere.