



IN THE COURT OF SENIOR CIVIL JUDGE & JMFC.,
AT MUDIGERE

Present: Sri. Prakash.P.M M.B.A., LL.B.,
Senior Civil Judge & JMFC.,
Mudigere.

Dated this the 3rd day of February 2026

O.S. No.44/2025

Plaintiff: **M/S. Kalasa Estate,**
A registered Partnership Firm
Having its Office at
Kalasa Estate, Kalasa Taluk,
Chikkamagaluru District-577 124

Rep. by its Working Partner
Sri. S. Alaghu Vairam
S/o. So. S. Sockalingam
Aged about 31 years,

[By Sri. A.S., Advocate]

V/s.

Defendants: **1. Sri. Mohammed Harris,**
Aged about 55 years,
S/o. Mohammed Sadiq Siddiq,
R/at "Royal Benshood",



No.90, Nagenahalli Cross Bus Stop,
Kannur Post, Bagalur,
Bengaluru-562 149.

2. M/S. Assa Real Estate PVT. LTD.,
A Company incorporated under
the Companies Act.
Having its registered Office
at No.18, 1st Floor,
7th Main Road,
HRBR Layout, Kalyananagara,
Bengaluru-560 043.

Rep. by its Director, Sri. Sundar,
Aged about 52 years

[D1 By Sri. M.V.J./A.B.M., Advocate,
D2 By Sri. K.S.A/K.C.C.]

RANK OF PARTIES IN IA.No.IX

**Applicant: Sri. Mohammed Harris,
defendant No.1**

V/s.

**Opponent: M/s. KALASA ESTATE,
plaintiff A registered Partnership Firm**



1	Provisions under which the application is filed	Under order VII rule 11(d) R/w Sec. 151 of CPC
2	Relief sought for	Rejection of plaint
3	The date on which the application is filed	25.10.2025
4	Number of the application	I.A.No.IX
5	Date on which the objection filed by opponents	30.10.2025
6	The date on which the order passed on the application	03.02.2026

(Prakash P.M.)
Senior Civil Judge & JMFC,
Mudigere.

ORDERS ON I.A. No. IX FILED BY THE
DEFENDANT No.1

I.A.No.IX filed by the defendant No.1 U/o VII rule 11(d) R/w Sec 151 of CPC pleased to reject the plaint in O.S. No. 44/2025.



2. In the affidavit annexed with IA No.IX defendant No.1 stated that,Defendant No.1 has filed IA No.IX under Order VII Rule 11(d) of the Code of Civil Procedure seeking rejection of the plaint on the ground that the suit is barred by law. The plaint discloses that the plaintiff has instituted the present suit seeking recovery of possession of the suit schedule property, damages and compensation towards alleged loss of profits at the rate of Rs.5,00,00,000/- per annum from the date of suit till delivery of possession, and permanent injunction. From the averments made in paragraphs 17 and 28 of the plaint, it is evident that pursuant to the MOU dated 12.04.2023, Defendant No.2 was in possession of the suit schedule property and had instituted O.S. No.79/2023 seeking permanent injunction against the plaintiff, which documents are produced along with the plaint itself. The plaint further indicates that the plaintiff was not in possession of the suit schedule property for more than six months prior to the filing of the present suit. The present suit is



stated to be one under Section 6 of the Specific Relief Act, 1963. Section 6(2) of the Act mandates that no suit shall be instituted after expiry of six months from the date of dispossession. From the statements made in the plaint and the documents relied upon by the plaintiff, it is manifest that the suit has been instituted beyond the period of limitation prescribed under Section 6(2) of the Specific Relief Act, 1963. Therefore, from the plaint averments alone, the suit appears to be barred by law and is hit by Order VII Rule 11(d) CPC.

3. The plaintiff has filed objections to IA No.IX contending that the application filed under Order VII Rule 11(d) CPC is misconceived, untenable in law, and liable to be rejected in limine, as the plaint discloses a clear and complete cause of action and is not barred by any law. It is contended that the suit is filed under Section 6 of the Specific Relief Act, 1963 seeking restoration of possession on the ground of illegal dispossession. In paragraph 31 of the plaint, it is specifically pleaded that the cause of action arose on



13.04.2025, being the date on which the plaintiff was forcibly and unlawfully dispossessed from the suit schedule property by the defendants. The plaint further discloses that the present suit has been instituted within six months from the date of alleged dispossession and is therefore within the limitation prescribed under Section 6(2) of the Specific Relief Act, 1963. The plaintiff contends that nowhere in the plaint is it pleaded that Defendant No.2 was put in possession of the suit schedule property under any General Power of Attorney or otherwise. Any such assertion is de hors the plaint and cannot be considered while deciding an application under Order VII Rule 11 CPC. The contention raised by Defendant No.1 regarding possession of Defendant No.2, the alleged MOU dated 12.04.2023, and the suit in O.S. No.79/2023 pertains to disputed questions of fact and defence pleadings, which cannot be looked into at this preliminary stage. The plaintiff further submits that paragraph 28 of the plaint only relates to quantification of damages and future



loss of profits and does not affect the cause of action or limitation under Section 6 of the Specific Relief Act, 1963. It is well settled that while considering an application under Order VII Rule 11(d) CPC, the Court must confine itself to the averments made in the plaint and, when so read as a whole, the plaint discloses a clear cause of action and does not appear to be barred by law. Hence, the plaintiff prays that IA No.IX be dismissed.

4. Heard the learned counsel for the plaintiff and defendant No.1. Perused the written notes of arguments furnished by defendant No.1 and 2 and perused the materials on record.

1. Whether defendant No.1 has made out sufficient grounds to reject the plaint?

2. What order?

5. My findings on the above Points are as below:



- Point No.1 : In Negative.
- Point No.2 : As per final orders
for the following:

R E A S O N S

6. Point No.1 : The defendant No.1 has filed IA.No.4 U/o 7 rule 11(a) of CPC praying to reject the plaint.

7. It is well settled that while considering an application under Order VII Rule 11(d) of the Code of Civil Procedure, the Court has to confine itself strictly to the averments made in the plaint and the documents relied upon by the plaintiff, without embarking upon an enquiry into disputed questions of fact or the defence set up by the defendants.

8. In the present case, the plaint discloses that the suit is instituted under Section 6 of the Specific Relief Act, 1963 seeking restoration of possession on the ground of alleged illegal dispossession. In paragraph 31 of the plaint, the plaintiff has specifically pleaded that



the cause of action arose on 13.04.2025, being the date on which the plaintiff was forcibly and unlawfully dispossessed from the suit schedule property by the defendants. The plaint further avers that the suit has been filed within six months from the said date of dispossession.

9. The contention of Defendant No.1 that the plaintiff was not in possession of the suit schedule property for more than six months prior to the filing of the suit is founded on the alleged MOU dated 12.04.2023 and the suit in O.S. No.79/2023 filed by Defendant No.2. However, these contentions pertain to disputed questions of fact and defence pleadings, which cannot be looked into at this preliminary stage while deciding an application under Order VII Rule 11(d) CPC.

10. A reading of the plaint as a whole does not disclose that the suit is barred by limitation under Section 6(2) of the Specific Relief Act, 1963. On the



contrary, the plaint specifically asserts dispossession within six months prior to the institution of the suit. Whether such assertion is true or not is a matter to be decided on evidence at trial.

11. Further, the reference made to paragraph 28 of the plaint pertains only to quantification of damages and alleged loss of profits and does not determine the date of dispossession or the maintainability of the suit under Section 6 of the Specific Relief Act. Therefore, from the plaint averments alone, it cannot be said that the suit is barred by any law. Defendant No.1 has failed to make out sufficient grounds for rejection of the plaint under Order VII Rule 11(d) CPC. Accordingly, **Point No.1 is answered in the Negative.**

12. **Point No.4:** In view of above findings on point No.1 to 3, this court proceed to pass the following.



O R D E R

The IA No.IX filed by the
defendant No.1 under order 7 rule
11 (d) R/w Sec 151 of CPC is
hereby **dismissed**.

No order as to costs.

*(Dictated to the stenographer directly on computer, computerized by her,
corrected and then pronounced by me in the open court on this the 3rd
day of February 2026)*

**(Prakash P.M.)
Senior Civil Judge & JMFC,
Mudigere.**