



IN THE COURT OF THE SENIOR CIVIL JUDGE AND
J.M.F.C., AT MUDIGERE

: PRESENT :

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

Dated this the 7th day of March 2026

O.S. No.49/2022

Plaintiff: Smt. Alice Pinto,
W/o Late Buthis Dcuhna,
House wife, Aged about 74 years
Residing at Jannapura,
Chinniga village,
Mudigere Taluk,
Chikkamagaluru District.

(By Sri. D.S., Advocate)

V/s.

Defendants :1. Smt. Juliana Pinto,
W/o Late Lawrence Pinto,
Aged about 67 years,
R/at Jannapura, Chinniga village,
Mudigere Taluk,
Chikkamagaluru District.



2. Miss. Cleeta Pinto,
D/o Late Lawrence Pinto,
Aged about 47 years,
R/at Jannapura, Chinniga village,
Mudigere Taluk,
Chikkamagaluru District.

3. Smt. Shanthi Pinto,
W/o Sunil D'Souza,
D/o Late Lawrence Pinto,
Aged about 45 years,
R/at Holy Cross road,
Neerumarga, Pedamale Post,
Mangalore Taluk,
Dakshina Kannada District.

4. Smt. Linda Pinto,
W/o Dennis D'Souza,
D/o Late Lawrence Pinto,
Aged about 43 years,
R/at Badriyanagar,
Mallur village and Post,
Mangalore Taluk,
Dakshina Kannada District.

5. Smt. Reshma Pinto,
W/o Alosiyous Gerald Fernandes,
Aged about 40 years,
R/at Kankanady Bye Pass Road,



Behind Sequeira Engineering works,
Kankanday, Mangalore,
Mangalore Taluk,
Dakshina Kannada District.

6. Mrs. Serpin Pinto,
W/o Late Dennis Pinto,
Aged about 76 years,
R/o Janatha Colony,
Katapadi at and post,
Udupi Taluk and District.

7. Lancy Pinto,
S/o Late Dennis Pinto,
Aged about 50 years,
R/o Janatha Colony,
Katapadi at and post,
Udupi Taluk and District.

8. Pricilla Pinto,
D/o Dennis Pinto,
Aged about 40 years,
R/o Janatha Colony,
Katapadi at and post,
Udupi Taluk and District.

9. Smt. Jelly Pinto,
D/o Late John Pinto,
Aged about 60 years,



R/o Jannapura,
Mudigere Taluk,
Chikkamagaluru District.

10. Mr. H.M. Duggegowda,
S/o H.B. Manjappagowda,
Aged about 60 years,
R/o College road, Jannapura,
Chinniga village,
Jannapura post,
Mudigere Taluk.

(D1 by Sri. K.S.A., Advocate,
D10 by Sri. D.K.P., Advocate,
D2 to 9 Exparte)

IA.NO.XVI

Applicants :- Smt. Juliana Pinto and others.

V/s.

Opponent:- Smt. Alice Pinto,

1	Provisions under which the application is filed	Under order VII rule 11 R/W Sec. 151 of CPC
2	Relief sought for	Rejection of plaint
3	The date on which the	11.03.2025



	application is filed	
4	Number of the application	I.A.No.XVI
5	Date on which the objection filed by opponents	17.04.2025
6	The date on which the order passed on the application	07.03.2026

**Senior Civil Judge and JMFC,
Mudigere**

**ORDERS ON I.A.NO.XVII FILED BY THE DEFENDANTS
U/O VII RULE 11 R/W 151 OF CPC**

I.A. No.XVI filed by the defendants U/o VII rule 11 of CPC to reject the plaint for want of no cause of action for the suit.

2. In the affidavit filed in support of the I.A., Defendant No.1 has contended that the plaintiff had earlier instituted O.S. No.11/2012 against her husband seeking the relief of partition and the said suit was decreed. It is further contended that, as



stated in paragraph No.12 of the written statement, the present second suit for partition is not maintainable, as the plaintiff failed to include the present plaint schedule properties in the earlier suit. The defendant has also urged that the present suit is barred by limitation and does not disclose any cause of action. According to the defendant, the law mandates that all properties liable for partition must be included in one comprehensive suit, and a party cannot institute successive suits for partition in respect of different properties at different points of time. On these grounds, it is contended that the present suit is barred by law and the plaint is liable to be rejected.

3. On the other hand, the plaintiff has filed objections contending that the application is not maintainable either in law or on facts and is devoid of merits. It is stated that the application is vexatious and filed only with an intention to harass the plaintiff and delay the proceedings. The plaintiff



further submits that there is inordinate delay in filing the present application and that it has been filed at the stage of further cross-examination as a mere afterthought to protract the matter, instead of leading evidence. It is contended that no preliminary issue regarding rejection of the plaint was raised earlier, nor were any questions put in cross-examination concerning the maintainability of the suit. The plaintiff denies all allegations made in the supporting affidavit and puts the defendant to strict proof thereof. It is further contended that there is no absolute bar against filing a second suit for partition when new facts or properties come to light. According to the plaintiff, she became aware only recently that the suit schedule properties are ancestral properties of her father, and such knowledge arose when the defendants proclaimed that they had sold those properties. As she was unaware of the ancestral nature of the properties at the time of filing the earlier suit, a fresh cause of



action has arisen, and therefore she has filed the present suit for partition. Hence, she prays for dismissal of the I.A.

4. Heard both side and perused the materials on record.

1. Whether defendants have 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:

REASONS

6. **Point No.1:** The defendants have filed this application under order 7 rule 11 of CPC praying to reject the plaint.



7. It is relevant to note that Order VII Rule 11 of CPC provides for rejection of the plaint in certain specific circumstances. The plaint shall be rejected where it does not disclose a cause of action; where the relief claimed is undervalued and the plaintiff fails to correct the valuation within the time granted by the Court; where the plaint is insufficiently stamped and the deficiency is not made good within the time allowed; where the suit appears from the statements in the plaint to be barred by any law; where the plaint is not filed in duplicate; and where the plaintiff fails to comply with the provisions of Rule 9 of Order VII. The power under this provision is to be exercised strictly in accordance with the averments made in the plaint.

8. At the outset, it is well settled that while considering an application under Order VII Rule 11 of CPC, the Court has to look only at the averments made in the plaint and the documents relied upon by the plaintiff. The defence taken by the defendants



in the written statement or in the affidavit filed in support of the application cannot be looked into at this stage.

9. On perusal of the plaint averments, it is seen that the plaintiff has specifically pleaded that she was not aware that the suit schedule properties were ancestral properties at the time of filing the earlier suit and that she came to know of the same only when the defendants dealt with the properties by way of sale. These pleadings, prima facie, disclose a cause of action for seeking partition in respect of the suit schedule properties.

10. Whether the plaintiff had knowledge of the properties earlier, whether the present suit is barred by limitation, and whether omission to include the present properties in the earlier suit would operate as a bar, are all mixed questions of law and fact, which require evidence. Such issues cannot be



adjudicated conclusively at the stage of considering an application under Order VII Rule 11 CPC.

11. The contention of the defendant that all properties must necessarily be included in one suit for partition is not an absolute proposition of law so as to automatically attract rejection of plaint at the threshold. In the present case, the plaint does not on its face disclose that the suit is barred by any law. On the contrary, it sets out a specific plea regarding subsequent knowledge and fresh cause of action. Therefore, this Court is of the considered opinion that the defendants have not made out sufficient grounds to reject the plaint under Order VII Rule 11 CPC. Accordingly, **Point No.1 is answered in the Negative.**

12. Point No.2: In view of my findings on point No.1, I proceed to pass the following.



O R D E R

The IA No.XVI filed by the
defendants under order 7 rule 11
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
07th day of March 2026)

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