



IN THE COURT OF CIVIL JUDGE AND J.M.F.C, SRINGERI

PRESENT: **Sri. Rahul Shettigar, B.Com (Hons.), LL.B**
 Civil Judge & J.M.F.C, Sringeri

DATED THIS THE 6th DAY OF AUGUST, 2024

ORIGINAL SUIT No. 7/2024

BETWEEN:

Sri.K S Manjunatha,
S/o Late Subbanna Gowda,
Aged about 60 years,
R/o Kalkuli, Kochchavalli Village,
Thekkuru Post,
Sringeri Taluk
(By Sri. V R Natashekhara, Advocate)

PLAINTIFF

-AND-

1. Sri. K S Dharmappa Gowda,
S/o Late Subbanna Gowda,
Aged about 70 years,
R/o Kalkuli, Kochchavalli Village,
Thekkuru Post,
Sringeri Taluk
2. The Range Forest Officer,
Sringeri Taluk, Sringeri
3. The Deputy Commissioner,
Chikkamagaluru District,
Chikkamagaluru.
(D1 - Ex-Parte,
D2 and 3 - Learned A.G.P, Sringeri)

DEFENDANTS

IN I.A.NO.V

The Range Forest Officer,
Sringeri Taluk, Sringeri

APPLICANT/ DEFENDANT
No.2

-AND-

Sri.K S Manjunatha,

OPPONENT/ PLAINTIFF



PARTICULARS

i	<i>Provision under which the application is filed</i>	<i>Order VII Rule 11(d) r/w S.151 of CPC</i>
ii	<i>Relief sought for</i>	<i>Rejection of plaint</i>
iii	<i>The date on which the application is filed</i>	<i>01.06.2024</i>
iv	<i>Number of the application</i>	<i>I.A.No.V</i>
v	<i>The date on which the objections are filed by different opponents</i>	<i>05.06.2024</i>
vi	<i>The date on which the orders were passed on the said application</i>	<i>06.08.2024</i>

ORDERS ON I.A. NO. V

1. Applicant/ Defendant No.2 has filed the instant application under Order VII Rule 11(d) r/w Section 151 of C.P.C seeking an order of rejection of the plaint on the alleged ground of non-compliance by the Opponent/ Plaintiff in serving mandatory notice on the Applicant/ Defendant No.2 prior to institution of the suit as contemplated under Section 114-A of the Karnataka Forest Act, 1963 (hereinafter, 'the Act', in short).
2. In the 'memorandum of facts' appended to the application, it is contended that the present suit has been filed by the Plaintiff seeking the relief of a permanent prohibitory injunction in respect of the suit schedule property. Defendant No.2, being a forest officer, should have been served with a



clear one-month mandatory notice prior to the institution of the suit as per Section 114-A of the Act, which has not been done by the Plaintiff. The non-compliance with the said provision of law becomes fatal to the case of the Plaintiff in view of the Judgment passed by the Hon'ble High Court of Karnataka in this regard, and hence, the plaint is liable to be rejected. No loss or hardship would be caused to the Plaintiff if the application is allowed and consequently if the plaint is rejected, whereas serious hardships would be caused to this Defendant if ordered otherwise. Hence, the prayer is to allow the application and consequently, reject the plaint.

3. *Per contra*, the Opponent/ Plaintiff has filed objections to the application contending that the application is not maintainable in law or on facts. The contention of the application is false, and the application ought to have been supported by an affidavit. The application is filed at the stage when the suit stood posted for hearing on I.A. No. II, and at this belated stage, the application is not maintainable. The contentions raised in the application are not applicable to the Plaintiff. The Plaintiff has been residing in the suit schedule property for several years, even prior to the amendment brought to the Act in the form of Section 114-A. The suit has been brought by



seeking leave under Section 80(2) of C.P.C. for dispensing with the period for service of statutory notice, and this Court has allowed such a request of the Plaintiff while instituting the suit. Hence, there is no non-compliance with any provision of law as alleged. Section 114-A of the Act does not apply to the suit schedule property since it is revenue land and not forest land, and the mahazar conducted by Defendant No.2 would evidence the said fact. The application is filed only to protract the proceedings without making out any grounds for rejection of the plaint. The plaint cannot be rejected at this stage, and the questions raised in the application need to be answered only after the trial. The suit is brought seeking bare injunction and in a suit of such nature, Defendant No.2, having no right, title, or interest over the suit schedule property, cannot maintain an application of such nature so as to reject the plaint. With these contentions, the Opponent/ Plaintiff prays for the dismissal of the application.

4. Heard both sides.
5. Learned A.G.P for Applicant/ Defendant No.2, in support of her contentions mainly banks upon the Judgement of the Hon'ble High Court of Karnataka in **SIDRAMAYYA S/O SHIVAGEPPA SWAMY AND ANR. V. THE STATE OF KARNATAKA AND**



ORS., a Judgement rendered on 24.11.2021 in **R.F.A No.200015/2020.**

6. Having heard the rival contentions and on perusal of the materials, the points that would now arise for my consideration are as under -

Point No.1 : Whether the Applicant/ Defendant No.2 has made out sufficient ground as required under Order VII Rule 11(d) of C.P.C to reject the plaint?

Point No.2 : What Order?

7. Now, my findings on the above points are as under -

Point No.1 : In the Affirmative

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

REASONS

8. **Point No.1:** The present suit is filed by the Plaintiff seeking relief of permanent prohibitory injunction restraining Defendants, their officers or representatives from unlawfully trespassing into the suit schedule property and interfering with the possession the Plaintiff and such other ancillary reliefs.
9. By way of the instant application, the Applicant/ Defendant No.2 seeks an order for the rejection of the plaint on the alleged ground of non-compliance by the Plaintiff in serving



mandatory notice on Defendant No.2 prior to the institution of the suit as contemplated under Section 114-A of the Act. The application has mainly been brought under Order VII Rule 11(d) of C.P.C, which reads thus –

Rejection of plaint -*The plaint shall be rejected in the following cases –*

.....
(d) where the suit appears from the statement in the plaint to be barred by any law;

- 10.** Learned A.G.P has made supporting submissions on the application filed on behalf of the Applicant/ Defendant No.2, contending that, admittedly, Defendant No.2 is a RFO falling within the definition of a forest officer as per Section 2(6) of the Act, who should have been served with the mandatory notice as contemplated under Section 114-A(2) of the Act prior to the institution of the suit, which undisputedly has not been done by the Plaintiff. Seeking leave under Section 80(2) of C.P.C prior to the institution of the suit becomes immaterial when a specific provision is provided in the special act stating that the suit must be dismissed for non-compliance in issuing the mandatory notice. Since there is an allegation of wrongdoing by the Defendant No.2 and he has been arrayed in this suit in his official capacity, the Plaintiff had no option but to serve him with the mandatory notice prior to the



institution of the suit, which has not been done. Hence, the suit must fail and the application must be allowed in view of the Judgment directly rendered on the point in **SIDRAMAYYA S/O SHIVAGEPPA SWAMY AND ANR. V. THE STATE OF KARNATAKA AND ORS. (supra)**.

11. Refuting such contentions, the Learned Counsel for the Opponent/ Plaintiff vehemently submitted that the suit, being filed for a bare injunction where there are other Defendants apart from Defendant No.2, the plaint cannot be rejected as sought for. The application of such a serious nature is not even supported by any affidavit, which renders the application liable to be dismissed. The suit schedule property being revenue land and not forest land, the Plaintiff is not expected to issue multiple notices prior to the institution of the suit. Since the suit has been instituted only upon obtaining leave as per Section 80(2) of the C.P.C., the suit is maintainable. The application should have been filed at the earliest available opportunity, but it has been filed at this belated stage, making it not maintainable. The suit schedule property being revenue land and not forest land, Defendant No.2 has been formally arrayed as a party to the suit, and there is no allegation against him that he acted in the colour of his duty. Rather, the



allegation is that he acted at the instigation of other Defendants. If the contention of Defendant No.2 is accepted and Section 114-A(2) of the Act is given a strict interpretation, and if any such one-month notice had been issued to Defendant No.2 prior to the institution of the suit, the suit itself would have been rendered infructuous since the Defendants would have had enough time to dispossess the Plaintiff from the suit schedule property.

- 12.** Before advertng to appreciate the contentions raised on either side, it would be beneficial to first understand the manner in which the Court has to proceed to deal with applications filed seeking rejection of the plaint, which has been beautifully encapsulated by the Hon'ble High Court of Karnataka in **SRI. BALARAMA V. N.C. BYATAPPA AND ORS.**, a Judgment rendered on 23.03.2022 in **R.F.A No.718/2012 (Dec/Par)**, wherein it is held at Para No's. 8 and 9 as under -

8. Order 7 Rule 11 CPC makes it clear that the relevant facts which needs to be looked into for deciding an application thereunder are the averments in the plaint. The Court can exercise power under Order 7 Rule 11 CPC at any stage of the suit before registering the plaint or after registering the summons by the defendants at any time before conclusion of the trial. For the purpose of deciding an application under clauses (a) and (b) of Rule 11 of Order 7 CPC, the averments in the plaint are



germane; the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage. Perusal of Order 7 Rule 11 shows that plaint can be rejected only if it appears from the statement in the plaint to be barred by any law. Even if the expressions of the statement in the plaint is given a liberal meaning, documents filed in the plaint may be looked into but nothing more. It is a trite law that Court must give a meaningful reading to the plaint and if it is manifestly vexatious or meritless in the sense of not disclosing a clear right to sue, the Court may exercise its power under Order 7 Rule 11 of CPC. Therefore, the Court while considering an application under Order 7 Rule 11 cannot take out submissions in the plaint in isolation but has to conduct a meaningful reading of the plaint. If the Court concludes that suit claims are barred by law, it has no option but to reject the plaint. The power to reject a plaint or to retain it for amendment should not be exercised except in a clear case. If there is any serious question to be decided, the proper course is to let the suit proceed with trial and then determine the matter on merits.

9. *The Hon'ble Apex Court in the case of Saleem Bhai vs. State of Maharashtra has held that matter is to be decided only on the averments made in the plaint. The Hon'ble Apex Court was also of the view that for the purpose of deciding an application under Order 7 Rule 11(a) and (d), averments in the plaint are germane. Pleas taken by the defendant in the written statement would be wholly irrelevant at that stage. Therefore, what emerges is that the disputed questions cannot be decided at the time of considering an application under Order 7 Rule 11 of CPC."*

- 13.** Keeping the very provision of law and these principles in mind, it becomes necessary to delve into the rival contentions made on the instant application seeking rejection of the plaint for non-compliance with Section 114-A of the Act, which reads thus –



Section 114-A - Suits or prosecution in respect of acts done under colour of duty not to be entertained without sanction of the State Government.-

(1) In any case of alleged offence or of wrong alleged to have been committed by any Forest Officer, by any act done under colour or in excess of any such duty or authority under this Act, or wherein it shall appear to the court that offence if committed was of the character aforesaid, the prosecution or suit shall not be entertained except with the previous sanction of the State Government.

(2) In the case of an intended suit on account of such wrong as aforesaid, the person intending to sue shall be bound to give to the alleged wrongdoer one month's notice atleast of the intended suit with sufficient description of the wrong complained of, failing which such suit shall be dismissed.

(3) The plaint shall set forth that a notice as aforesaid has been served on the defendant and the date of such service, and shall state whether any, and if so, what tender of amends has been made by the defendant. A copy of the said notice shall be annexed to the plaint endorsed with a declaration by the plaintiffs of the time and manner of service thereof.

- 14.** A bare reading of Sub-Section (2) of the above provision of law, which becomes relevant to decide the instant application, clearly indicates that for any wrong alleged to be done by a forest officer in the colour of duty, any intended suit cannot be brought unless a clear notice of one month is issued against such alleged wrongdoer. Failing which, the suit shall be dismissed.
- 15.** In this backdrop, it becomes necessary to examine the allegations or the cause of action shown in the plaint for



bringing the suit against Defendant No.2. Para No.8 of the plaint reads thus –

"ಹೀಗಿರುವಲ್ಲಿ 1 ಮತ್ತು 2 ನೇ ಪ್ರತಿವಾದಿಗಳು ದಿನಾಂಕ: 12-12-2023 ರಂದು ಮಧ್ಯಾಹ್ನ ಸುಮಾರು 4 ಗಂಟೆಯ ಸಮಯದಲ್ಲಿ ದಾವಸ್ವತ್ತಿಗೆ ಅತಿಕ್ರಮ ಪ್ರವೇಶ ಮಾಡಿ ಜೆ.ಸಿ.ಬಿ. ಯನ್ನು ತೆಗೆದುಕೊಂಡು ಬಂದು ವಾದಿಗೆ ಬೆದರಿಕೆಯನ್ನು ಹಾಕಿ ದಾವಸ್ವತ್ತಿನ ಷೆಡ್ ಅನ್ನು ಕಿತ್ತು ನಾಶಮಾಡುವುದಾಗಿ ಬೆದರಿಕೆ ಹಾಕಿರುತ್ತಾರೆ. ವಾದಿಯು ಪ್ರತಿವಾದಿಗಳ ಈ ದುಷ್ಕೃತ್ಯವನ್ನು ಬಹಳ ಕಷ್ಟದಿಂದ ತಡೆದಿರುತ್ತಾನೆ. ಅಂದು ದಿನಾಂಕ: 12-12-2023 ರಂದು 1 ಮತ್ತು 2 ನೇ ಪ್ರತಿವಾದಿಗಳು ಹಿಂದಕ್ಕೆ ಹೋಗುವಾಗ ವಾದಿಗೆ ಬೆದರಿಕೆಯನ್ನು ಹಾಕಿ ದಾವಸ್ವತ್ತಿನ ಷೆಡ್ ಅನ್ನು ಇನ್ನೊಮ್ಮೆ ಜೆ.ಸಿ.ಬಿ. ಯನ್ನು ತೆಗೆದುಕೊಂಡು ಬಂದು ಕಿತ್ತು ನಾಶಮಾಡುವುದಾಗಿ ಬೆದರಿಕೆ ಹಾಕಿರುತ್ತಾರೆ. ವಾದಿಯು ಈ ವಿಚಾರದಲ್ಲಿ ಶೃಂಗೇರಿ ತಾಣಾಧಿಕಾರಿಗಳಿಗೆ ದೂರನ್ನು ನೀಡಲು ಹೋದಾಗ ತಾಣಾಧಿಕಾರಿಗಳು ವಾದಿಯಿಂದ ಯಾವುದೇ ದೂರನ್ನು ಸ್ವೀಕರಿಸದೇ ವ್ಯವಹಾರವು ಸಿವಿಲ್‌ಗೆ ಸಂಬಂಧಿಸಿದ್ದೆಂದು ಸೂಕ್ತ ಪರಿಹಾರವನ್ನು ನ್ಯಾಯಾಲಯದಲ್ಲಿ ತೆಗೆದುಕೊಳ್ಳುವಂತೆ ತಿಳಿಸಿರುತ್ತಾರೆ. ಕಾರಣ ವಾದಿಯು ಅನ್ಯ ಮಾರ್ಗವಿಲ್ಲದೇ ಈ ದಾವೆಯನ್ನು ಈ ನ್ಯಾಯಾಲಯಕ್ಕೆ ಸಲ್ಲಿಸಿರುತ್ತಾನೆ. ಈ ಮಾನ್ಯ ನ್ಯಾಯಾಲಯದ ಆದೇಶವಿಲ್ಲದೇ ಹೊದಲಿ ವಾದಿಗೆ ಪ್ರತಿವಾದಿಗಳ ಕೃತ್ಯವನ್ನು ತಡೆಯಲು ಸಾಧ್ಯವಾಗುವುದಿಲ್ಲ".

- 16.** The averments made in the above paragraph clearly indicate that the Plaintiff is alleging that Defendant No.1 & 2 have interfered with his possession over the suit schedule property, which he has resisted. According to him, the cause of action for bringing the suit has arisen mainly due to such acts of interference by Defendant No.1 & 2. Defendant No.2, admittedly being a forest officer, is arrayed as one of the Defendants in this suit in his official capacity. The allegations



made in the above paragraph are clearly against him exercising the authority vested in him by the law, which the Plaintiff seeks to remedy by filing this suit seeking to restrain interference over the suit schedule property, even against Defendant No.2. These allegations, based on the strong averments made in the above paragraph of the plaint, indicate that the Plaintiff is alleging wrongdoing by the Defendants, including Defendant No.2. Given this, the Plaintiff was expected to comply with what Section 114-A(2) of the Act clearly states and should have mandatorily issued the notice contemplated therein before instituting the suit, which admittedly has not been done. Accordingly, there is no chance that this suit against Defendant No.2 can survive. In this regard, useful reference can be made to Para No.15 in the Judgment relied upon by the Learned A.G.P in **SIDRAMAYYA S/O SHIVAGEPPA SWAMY AND ANR. V. THE STATE OF KARNATAKA AND ORS. (supra)**, which reads thus –

***15.** It is the case of the plaintiffs that they are the absolute owners in possession of the suit schedule property and that the defendant Nos. 2 and 3 claiming the said land to be the forest land, are interfering with that possession. Needless to mention that defendant Nos. 2 and 3 have been arrayed as defendants in the suit in their official capacity as Forest Officers, alleging that they are interfering with the possession of the plaintiffs claiming the land to be the forest land. This*



purported wrong on the part of the defendant Nos. 2 and 3, according to the plaintiffs would not fall within the counters of Section 114-A of the Act. This submission cannot be countenanced for the reason that defendant Nos. 2 and 3 whom the plaintiffs have arrayed in their official capacity, have admittedly come to the suit schedule property claiming the same to be the forest land. This act of the defendant Nos. 2 and 3, who are the Forest Officers, can only be pursuant to the exercise of the authority vested in them under the Act. It is a different matter if the authority was rightly or wrongly exercised. The fact of the matter is that defendant Nos. 2 and 3 had allegedly interfered with the possession of the plaintiffs in their capacity as the Forest Officers. This alleged wrong is sought to be remedied by the plaintiffs.

*Term 'wrong' is not defined under the Act. As per the meaning and definition found in the Blacks Law Dictionary : Ninth Edition meaning of;
Wrong vb.*

"Breach of one's legal duty violation of another's legal right:

"A wrong may be described, in the largest sense, as anything done or omitted contrary to legal duty, considered insofar as it gives rise to liability. "Fredrick Pollock"

"A wrong is simply a wrong Act; an act contrary to the rule of right and justice. A synonym of it is injury, in its true and primary sense of injuria (that which is contrary to jus) John Selmond, Jurisprudence 227 (Glanville L. Williams ed, 10th edition 1947".

Therefore, requirement of issuance of one month's notice in terms of Section 114-A of the Act, before filing the intended suit complaining of their wrong mentioned therein is mandatory.

- 17.** On going through the above paragraphs, it is clear that the observations made therein are similar to what has been stated above in respect of the present suit. The further contentions raised on behalf of the Plaintiff, to the effect that the suit



schedule property is revenue land and not forest land, which requires no notice to be served as per Section 114-A(2) of the Act and that the suit has been instituted only upon seeking leave as per Section 80(2) of the C.P.C., become immaterial. Whether it is revenue land or forest land, what becomes relevant in applying Section 114-A(2) of the Act is the allegation of wrongdoing against the forest officer in exercising his authority in an official capacity. The examination of whether such exercise of authority was over revenue land or forest land, and whether it was rightly or wrongly exercised, is of no consequence and hence, need not be examined. As far as the contention that the suit was instituted only after seeking leave under Section 80(2) of C.P.C. is concerned, this contention was also raised in **SIDRAMAYYA S/O SHIVAGEPPA SWAMY AND ANR. V. THE STATE OF KARNATAKA AND ORS. (supra)**, but all such contentions have been nullified by the Hon'ble High Court of Karnataka. It has been held in implied terms that a suit brought in violation of Section 114-A(2) of the Act cannot survive under any circumstances.

- 18.** The Learned Counsel for the Opponent/ Plaintiff has also raised two other contentions regarding the manner and stage



at which the application on hand has been brought, which need to be addressed. Regarding the contention that the application of this serious nature is not even supported by an affidavit, it can be observed that the Provisio to Rule 18(2) of the Karnataka Civil Rules of Practice, 1967 contemplates several applications which cannot survive unless supported by an affidavit. However, the application on hand seeking rejection of the plaint is not covered therein. The further contention that the application on hand should have been brought at the earliest available opportunity and that one brought at this belated stage would not be maintainable would again fail, since it is settled law and covered by a catena of Judgments that an application seeking rejection of a plaint can be entertained at any stage of the suit and is not stage-bound by any provision of law.

- 19.** It is also contended in the objections that the application of such nature alleging violation of any provision of law cannot be decided at this juncture and finding must be given of any such violation only at the conclusion of the trial. Such contention is liable to fail in view of the Judgement of the Hon'ble Supreme Court of India in **DAHIBEN V. ARVINDBHAI**



KALYANJI BHANUSALI reported in **(2020) 7 SCC 366**

wherein, it is held at Para No.23.6 & 23.15 as under –

23.6. Under Order 7 Rule 11, a duty is cast on the court to determine whether the plaint discloses a cause of action by scrutinising the averments in the plaint [Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I, (2004) 9 SCC 512], **read in conjunction with the documents relied upon, or whether the suit is barred by any law.**

23.15. The provision of Order 7 Rule 11 is **mandatory in nature.** It states that the **plaint “shall” be rejected if any of the grounds specified in clauses (a) to (e) are made out. If the court finds that the plaint does not disclose a cause of action, or that the suit is barred by any law, the court has no option, but to reject the plaint.**

(Emphasis supplied by me)

- 20.** On going through the above paragraphs, it is clear that where it is apparent on the face of the records that the suit would fail for being barred by any law, the Court has no option but to reject the plaint.
- 21.** As a last row to the sinking boat, the Learned Counsel for the Plaintiff vehemently argued that even by the very provision of law, it is contemplated that a suit for non-compliance in issuing the notice must end in dismissal of the suit, whereas this application, which has been brought seeking relief of rejection of the plaint, should be dismissed as not maintainable. This contention cannot survive since the Hon’ble High Court of Karnataka in **SIDRAMAYYA S/O**



SHIVAGEPPA SWAMY AND ANR. V. THE STATE OF KARNATAKA AND ORS. (supra) was also considering an appeal taken up on findings given on an application filed seeking rejection of the plaint and upheld the order passed by the Trial Court rejecting the plaint for non-compliance with Section 114-A(2) of the Act. But, rejection of plaint in part as against some Defendant/s in certain peculiar circumstances, is not something alien to law.

- 22.** In view of the elaborate discussion made above, it is now clear that the findings given in **SIDRAMAYYA S/O SHIVAGEPPA SWAMY AND ANR. V. THE STATE OF KARNATAKA AND ORS. (supra)**, which is directly on point, are pitted against all such contentions raised by the Opponent/ Plaintiff in opposing the application on hand, such contentions undoubtedly would run foul of the Judgment rendered by the Hon'ble High Court of Karnataka. Hence, this leaves no option for this Court but to give a positive finding on the instant application and hold that the suit against the Applicant/ Defendant No.2 is not maintainable and is explicitly barred by Section 114-A(2) of the Act.
- 23.** The above observation now opens a fresh discussion on whether the plaint could be rejected only in so far as the



Applicant/ Defendant No.2 is concerned since the violation alleged is the non-service of mandatory notice only against the said Defendant No.2, the forest officer, who alone has brought the instant application. This must also be considered in view of the settled position of law that a plaint when decided to be rejected, should be rejected in whole and not in part. But, rejection of plaint in part as against some Defendant/s in certain peculiar circumstances, is not something alien to law.

- 24.** In this regard, the Hon'ble High Court of Karnataka recently, in **MURLIDHAR & ORS. V. SHWETHA & ORS.**, a Judgment rendered on 29.03.2023 in **C.R.P No.100136/2022**, while dealing with the dismissal of the application by the trial court, which was filed seeking rejection of the plaint with the observation that the plaint cannot be rejected only against one of the Defendants, has set aside such order and has proceeded to reject the plaint qua some of the Defendants. Para No.11 and the operative portion of the said judgment read thus –

11. *The perusal of the plaint averments makes it clear that the plaintiffs are claiming right in respect of item No.1 of the suit "B" schedule property and the cause of action as stated supra at para No.IX makes it evident that suit of the plaintiffs rests on item No.1 of the suit*



"B" schedule property. The Trial Court rejected the application on the ground that the plaint cannot be rejected in part only against one of the defendants since the application is filed seeking for rejection of plaint only with respect of item No.1 of the suit schedule properties is not sustainable. It is settled position of law that while considering the application filed under Order VII Rule 11(a) and (d) of the CPC, the plaint averments only needs to be looked into and even in the absence of any objections or application filed by the defendants, the Court suo moto look into the averments in the plaint and where the suit appears from the statement in the plaint to be barred by limitation.

.....

ORDER

(i).....

(ii).....

(iii) I.A.No.IV filed under Order VII Rule 11(a) and (d) read with Section 151 of CPC is hereby allowed. Consequently, the plaint stands rejected as against defendant Nos.2 to 6 in respect of item No.1 of the suit schedule properties.

- 25.** On going through the above Judgment, it can be held that in the present suit, since the violation complained of pertains to non-compliance with the issuance of mandatory notice as per Section 114-A(2) of the Act to Applicant/ Defendant No.2, who is a forest officer, and the instant application has been filed only by the said Defendant No.2, there is no legal impediment in rejecting the plaint qua Defendant No.2 by relying upon the Judgment passed in **MURLIDHAR & ORS. V. SHWETHA & ORS. (supra)** and such course alone appears to be the right course given the peculiar facts and circumstances of the suit.



Accordingly, **Point No.1**, which has arisen for my consideration is answered in the ***Affirmative***.

26. Point No.2:For the foregoing reasons, the following -

ORDER

I.A No.V filed by the Applicant/ Defendant No.2 under Order VII Rules 11(d) r/w Section 151 of C.P.C is hereby allowed.

Resultantly, the plaint stands rejected only as against Defendant No.2.

(Typed, computerized and corrected by me and then pronounced in the Open Court, on this the 6th DAY OF AUGUST, 2024)

**(Rahul Shettigar)
Civil Judge & J.M.F.C,
Sringeri.**