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

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

DATED THIS THE 23rd DAY OF MARCH, 2026

ORIGINAL SUIT No. 25/2024

BETWEEN:

1. Smt. Anusuyamma,
D/o. Late. Sri. Rudraiah,
W/o. Late. Sri. Mahadevaiah,
Aged about 63 years,
Housewife,
R/o. Banashankari Badavane,
Galihalli Cross,
Tarikere Town,
Tarikere Taluk.

PLAINTIFFS

2. Smt. Shanthamma,
D/o. Late. Sri. Rudraiah,
Aged about 60 years,
Housewife,
R/o. Bhakthanakatte village,
Shivani Hobli,
Ajjampura Taluk.

(By Sri. T.V. Nagaraj, Advocate)

-AND-

1. Sri. Panchaksharaiah,
S/o. Late. Sri. Rudraiah,
Aged about 70 years,

2. Sri. Karisiddaiah,
S/o. Sri. Panchaksharaiah,
Aged about 42 years,

DEFENDANTS

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3. Sri. Kumaraswamy,
S/o. Sri. Panchaksharaiah,
Aged about 40 years,

Defendant No.1 to 3 are
Agriculturists,
R/o. Bavikere Village,
Lakkavalli Hobli,
Tarikere Taluk.

4. Smt. Latha,
W/o. Late. Sri. Chandraiah,
Aged about 45 years,
Housewife,
R/o. Chowdeshwarai Colony,
Tarikere Town,
Tarikere Taluk.

5. Smt. Uma,
W/o. Sri. Jagadeesh,
Aged about 42 years,
Housewife,
R/o. Chowdeshwarai Colony,
Tarikere Town,
Tarikere Taluk.

6. Sri. Chandrashekar,
S/o. Late. Sri. Onkaraswamy,
Aged about 40 years,
R/o. Chowdeshwarai Colony,
Tarikere Town,
Tarikere Taluk.

7. Smt. Bettamma,
D/o. Late. Sri. Onkaraswamy,
Aged about 40 years,
Housewife,
R/o. Ganjigere village,

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Bhavikere post,
Lakkavalli Hobli,
Tarikere Taluk.

**(D.1 to 3 by Sri. M.K. Thejamurthy,
Advocate)
(D.4 to 6 – Exparte)
(D.7 by Sri. T.L. Prakash, Advocate)**

IN I.A.NO.III

Smt. Bettamma

**APPLICANT/
DEFENDANT No.7**

-AND-

Smt. Anusuyamma and another

OPPONENT/ PLAINTIFF

PARTICULARS

<i>i</i>	<i>Provision under which the application is filed</i>	<i>Order VII Rule 11(a) & 11(d) of CPC</i>
<i>ii</i>	<i>Relief sought for</i>	<i>Rejection of plaint</i>
<i>iii</i>	<i>The date on which the application is filed</i>	<i>03.06.2025</i>
<i>iv</i>	<i>Number of the application</i>	<i>I.A.No.III</i>
<i>v</i>	<i>The date on which the objections are filed by different opponents</i>	<i>17.02.2026</i>
<i>vi</i>	<i>The date on which the orders were passed on the said application</i>	<i>23.03.2026</i>

ORDERS ON I.A. NO. III

1. Applicant/ Defendant No.7 has filed the instant application under Order VII Rule 11(a) & 11(d) of C.P.C seeking an order of rejection of the plaint on the alleged ground of want of

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cause of action to file the present suit and for the suit being barred by law of limitation as against the Defendant No.7 in respect of the Item No.2 of the suit schedule properties.

2. In the affidavit appended to the application, it is contended that the suit has been filed seeking the relief of partition and separate possession, as well as a declaration that the sale deed pertaining to the year 1970 is null and void. It is further contended that the Plaintiffs and Defendant Nos. 1 to 6 have colluded with each other and, despite having knowledge of the transaction executed by the father of the Plaintiffs under a registered document in the year 1970, have instituted the present suit. It is also contended that the subject matter of the sale deed has been subjected to further partition within the family of the purchasers. In these circumstances, the suit is stated to be barred by limitation and also not maintainable in view of Section 6 of the Hindu Succession Act, which came into effect on 09.09.2005. It is further stated that Plaintiff Nos. 1 and 2 had attained majority in the years 1980 and 1983 respectively, yet the suit has been filed only in the year 2024. In these circumstances, it is contended that there is no

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cause of action for the suit and that it is barred by limitation.

Hence, the prayer is to allow the application.

3. Resisting the application, the Plaintiffs have filed their objections contending that the application is not maintainable either in law or on facts and is liable to be dismissed. It is further contended that the supporting affidavit is false and that the application has been filed with an intention to harass the Plaintiffs. It is stated that the property sold to the family of Defendant No. 7 is ancestral and joint family property of the Plaintiffs and other Defendants, and therefore the said transaction would not bind or affect the share of the Plaintiffs in the property. It is further contended that the sale deed was not within the knowledge of the Plaintiffs, as they were married and residing separately. The Plaintiffs assert that they have a strong case on merits, and in such circumstances, the present application cannot be entertained. Hence, the prayer is to dismiss the application.
4. Heard both sides.

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5. 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.6 has made out sufficient ground as required under Order VII Rule 11(a) and (d) of C.P.C to reject the plaint?

Point No.2 : What Order?

6. 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

7. **Point No.1:** The present suit is filed by the Plaintiffs seeking the mainly the relief of partition and separate possession and such other ancillary reliefs.
8. By way of the instant application, the Applicant/ Defendant No.7 seeks an order for the rejection of the plaint on the alleged ground of want of cause of action to file the present suit and for the suit being barred by law of limitation. The application has mainly been brought under Order VII Rule 11(a) & (d) of C.P.C, which reads thus –

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

(a) where it does not disclose a cause of action

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

9. Before advertent 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

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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."*

- 10.** Keeping the very provision of law and these principles in mind, it becomes necessary to delve into the rival contentions.

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- 11.** The application is primarily based on two grounds: first, that the suit, having been filed in the year 2024 challenging a registered sale deed pertaining to the year 1970, is barred by the law of limitation; and second, that the suit lacks any cause of action.
- 12.** The averments in the plaint indicate that the Plaintiffs are female members of the alleged joint family, and it is their contention that they and Defendant Nos. 1 to 6 constitute a joint family, with the suit properties being ancestral and joint family properties. With respect to Item No. 2 of the suit schedule property, it is contended that their father had alienated the said property in favour of the family of Defendant No. 7 under a registered sale deed in the year 1970, even though the said property was joint family property, and therefore the said sale deed is not binding on their rights or share. The claim in respect of Item No. 1 pertains to other family members.
- 13.** Given that the Plaintiffs are female members of the alleged joint family, it must be stated at the outset that the suit against Defendant No. 7, in respect of Item No. 2, even as per

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the plaint averments, appears to be not maintainable both in view of the amended Section 6 of the Hindu Succession Act as well as the law of limitation. However, a difficulty arises in allowing the application, for the reason that the suit has also been instituted against other family members in respect of another property, i.e., Item No. 1, which is unrelated to the Applicant/Defendant No. 7. Consequently, any order passed in favour of the Applicant would amount to partial rejection of the plaint, which, as per settled law, is impermissible. However, this Court has laid its hands on the Judgment of the Hon'ble High Court of Karnataka in **MURLIDHAR & ORS. V. SHWETHA & ORS.**, a Judgment rendered on 29.03.2023 in **C.R.P No.100136/2022**. Para No.11 to 13 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*

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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.

12. Amended Section 6 of the Hindu Succession Act, 2005 specifies that the daughter becomes a coparcener by birth, however, proviso to Section 6 of the said Act specifies that nothing shall affect or invalidate any disposition or alienation including any partition or testamentary disposition of property which had taken place before the 20th day of December, 2004.

13. Admittedly, as the alienation as contented by the plaintiffs themselves was made in the year 1954 much prior to the commencement of the Amended Act and the said alienation has been saved under the proviso to Section 6 of the Act, the present suit for partition and separate possession is not maintainable in respect of item No.1 of the suit schedule properties. The Trial Court, ignoring the provisions of law, has passed the impugned order and the same is not sustainable. Accordingly, this Court is of the considered view that the application filed by defendant Nos.2 to 6 needs to be allowed and consequently, the application filed under Order VII Rule 11(a) and (d) read with Section 151 of CPC needs to be allowed. Accordingly, this Court pass the following:

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.

- 14.** A reading of the above paragraphs makes it abundantly clear that a suit instituted by female members challenging

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alienations made prior to 20.12.2004 cannot survive, even in view of the amended Section 6 of the Hindu Succession Act. In light of the settled legal position, the suit, insofar as it relates to Item No. 2 and Defendant No. 7, cannot be sustained.

- 15.** The Hon'ble High Court of Karnataka, in the decision referred to above, while considering the dismissal of an application by the Trial Court seeking rejection of the plaint, and observing that a plaint cannot be rejected only in respect of one of the defendants, has set aside such order and proceeded to reject the plaint qua some of the defendants. The facts of the said case and the present case being substantially similar, there is no impediment in applying the said legal principle, notwithstanding the general rule that a plaint cannot be rejected in part.
- 16.** Though this may appear to be a deviation from the settled principle that a plaint cannot be rejected partially, such an approach would serve the ends of justice and prevent unnecessary hardship to Defendant No. 7, who would otherwise be compelled to undergo prolonged litigation and

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incur avoidable expenditure, despite the likelihood of success even if the suit is adjudicated on merits. With these observations, **Point No.1**, which has arisen for my consideration is answered in the ***Affirmative***.

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

ORDER

I.A No.III filed by the Applicant/ Defendant No.7 under Order VII Rules 11(a) & (d) of C.P.C is hereby allowed.

Resultantly, the plaint stands rejected only as against Defendant No.7 in respect of Item No.2 of the suit schedule properties.

(Dictated to Stenographer, after transcription, print out corrected and then pronounced by me in the Open Court on this the 23rd of MARCH, 2026)

**sd/-
(Rahul Shettigar)
Prl. Civil Judge & J.M.F.C,
Tarikere.**

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