

KACM710010322020



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

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

DATED THIS THE 17th DAY OF JUNE, 2026

ORIGINAL SUIT No. 271/2020

BETWEEN:

Sri. Syed Aftab,
S/o. Sri. Syed Ahmad,
Aged about 69 years,
Agriculturist and Businessman,
R/o. Pampamahakavi road,
Tarikere Town-577528

PLAINTIFF

(By Sri. C. S. Shiva Prasad, Advocate)

-AND-

1. Chief Secretary,
Government of Karnataka,
Vidhana Soudha,
Bengaluru-560001.

DEFENDANTS

2. Deputy Commissioner,
Office of Deputy Commissioner,
Chikkamagalur District,
Chikkamagalur-577101.

3. Deputy Conservator of Forest,
Office of DFO,
Bhadravathi Division,
Lower Hutta, B.H. Road,
Bhadravathi-577301.

KACM710010322020



4. Assistant Conservator of Forest,
Office of AFO,
Tarikere Sub-Division,
B.H. Road,
Tarikere-577228.

5. Range Forest Officer,
Office of RFO,
Tarikere Range,
B.H.Road,
Tarikere-577228.

(D-1 to 5 – Learned A.G.P, Tarikere)

IN I.A.NO.VI

The Range Forest Officer,
Tarikere

**APPLICANT/
DEFENDANT No.5**

-AND-

Smt. Rehana Jan

OPPONENT/ PLAINTIFF

PARTICULARS

<i>i</i>	<i>Provision under which the application is filed</i>	<i>Order VII Rule 11(d) r/w S.151 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>24.03.2026</i>
<i>iv</i>	<i>Number of the application</i>	<i>I.A.No.VI</i>
<i>v</i>	<i>The date on which the objections are filed by different opponents</i>	<i>08.06.2026</i>
<i>Vi</i>	<i>The date on which the orders were passed on the said application</i>	<i>17.06.2026</i>

KACM710010322020

**ORDERS ON I.A. NO. VI**

1. Applicant/ Defendant No.5 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.
2. In the affidavit appended to the application, it is averred that the suit schedule property has been declared as a deemed forest pursuant to the notification issued by the Government vide Notification No. ಆರ್.6323-ಎಫ್.ಟಿ.80-03-7, dated 25.01.1909 ಮತ್ತು 25.01.1990. It is contended that the suit schedule property is forest land and that the grant of such property, having been declared as forest land, is barred under law. Therefore, the Plaintiff cannot claim to be in lawful possession and enjoyment of the suit schedule property. It is further contended that, since the suit schedule property is forest land, the Civil Court has no jurisdiction to try the present suit in view of Sections 4 and 17 of the Karnataka Forest Act. The legal position, according to the Defendants, has been clarified by the Hon'ble High Court of Karnataka in RSA No. 200390/2014. In these circumstances, it is

KACM710010322020



contended that the plaint is liable to be rejected. Accordingly, the Defendants have prayed for allowing the application.

3. Resisting the application, the Plaintiff has filed objections contending that the application is not maintainable either in law or on facts and is therefore liable to be dismissed. It is stated that, in the facts and circumstances of the case, only the averments made in the plaint are required to be considered while adjudicating the application. The suit for bare injunction is wholly maintainable. The contention that the plaint schedule property is forest land is false. There is sufficient revenue land available in the survey number in which the suit schedule property is situated. The suit schedule property was granted to the Plaintiff's vendor, who had also obtained a loan from the bank by mortgaging the said property. The contention that there is no cause of action for the suit is untenable and does not hold water. Accordingly, the Plaintiff has prayed for dismissal of the application.
4. Heard both sides.
5. Learned AGP banks on the following Government notification and Judgment in support of his submissions -

KACM710010322020



- a. Government order No. ಆರ್.6323-ಎಫ್.ಟಿ.80-03-7, dated 25.01.1909 ಮತ್ತು 25.01.1990
- b. RSA.No.200390/2014 (Hon'ble High Court of Karnataka-Kalaburagi Bench)

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.5 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 Negative

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 agents, subordinates, representatives, officials or any other persons from unlawfully trespassing into the suit schedule property and interfering with the possession the Plaintiff and such other ancillary reliefs.

KACM710010322020



9. By way of the instant application, the Applicant/ Defendant No.5 seeks an order for the rejection of the plaint on the alleged ground of Sections 4 and 17 of Karnataka Forest 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. 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*

KACM710010322020



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."*

KACM710010322020



11. Keeping the very provision of law and these principles in mind, it becomes necessary to delve into the rival contentions.
12. The application is primarily founded on the contention that the relief of permanent injunction sought in the suit is barred by law in view of Sections 4 and 17 of the Karnataka Forest Act.
13. It is a settled principle of law that, while considering an application of this nature seeking rejection of the plaint, only the averments made in the plaint and the documents produced by the Plaintiff along with the plaint are germane for consideration. Neither the written statement nor the documents produced by the Defendants can be looked into at this stage.
14. A perusal of the plaint averments indicates that the Plaintiff has contended that the suit schedule property was originally granted to the previous owner by the Government. Subsequently, owing to default in repayment of a loan, the property was brought to public auction, wherein the Plaintiff purchased the suit schedule property. According to the Plaintiff, the Defendants, being officials of the concerned

KACM710010322020



department, have been interfering with his peaceful possession and enjoyment of the suit schedule property. Alleging continuous interference with his possession and enjoyment of the suit schedule property, the Plaintiff has instituted the present suit seeking protection of his possession by way of a permanent injunction.

- 15.** The application filed by the Defendants proceeds on the premise that the entire extent of suit schedule land, has been declared as deemed forest and that, therefore, a suit in respect of such property is barred under Sections 4 and 17 of the Karnataka Forest Act, 1963.
- 16.** It must be reiterated that, while deciding an application for rejection of the plaint, the Court can only consider the averments contained in the plaint and the documents produced in support thereof. The contention that the survey number in which the suit schedule property is situated has been declared as deemed forest forms part of the defence raised by the Defendants. Neither the plaint nor the documents produced by the Plaintiff disclose that the suit schedule property falls within any area notified or declared as

KACM710010322020



deemed forest. In such circumstances, the matter necessarily requires adjudication upon evidence and cannot be decided at the threshold on the basis of a defence raised by the Defendants.

17. Even the judgment relied upon by the Defendants indicates that the findings therein were rendered after a full-fledged trial and upon appreciation of the evidence placed on record. Therefore, the reliance placed on the said judgment at this preliminary stage appears to be misplaced. Consequently, the plaint cannot be rejected on the grounds urged in the present application. With these observations, **Point No.1**, which has arisen for my consideration, is answered in the **Negative**.

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

ORDER

*I.A No.VI filed by the Applicant/ Defendant
No.5 under Order VII Rules 11(d) of C.P.C is
hereby dismissed.*

Now, no costs.

(Dictated to Stenographer, after transcription, print out corrected and then pronounced by me in open Court on this the 17th of JUNE 2026)

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