

**IN THE COURT OF THE PRL. CIVIL JUDGE &
JMFC., AT GUNDLUPETE**

: PRESENT :

**SRI. DEEPU M.T, B.A.L. LL.B.,
Prl. Civil Judge & J.M.F.C.,
Gundlupet**

Dated on this the 28th day of OCTOBER, 2025

OS No.176/2023

Plaintiffs : 1. Chikkamadamma
W/o Late. Marishetty
Aged about 75 years

2. M Mahadevu
S/o Late. Marishetty
Aged about 48 years

3. Madappashetty
S/o Late. Marishetty
Aged about 41 years

The plaintiff No.1 to 3 are R/at:
Beguru Village, Beguru Hobli
Gundlupete Taluk.

4. Mahadevamma
D/o Late. Marishetty
Aged about 46 years
R/at: Hunasanalu Village
Kasaba Hobli, Nanjangudu Taluk.

5. Mahadevamma
D/o Late. Marishetty
Aged about 44 years
R/at: Golur Village
Kasaba Hobli, Nanjangudu Taluk.

[By Sri. EMK, Advocate]

V/s

- Defendants :**
- 1. Lakshmi**
W/o Marishetty
Aged about 55 years
 - 2. Madappa**
S/o Late. Marishetty
Aged about 35 years
 - 3. Siddashetty**
S/o Late. Nanjashetty
Aged about 55 years
 - 4. Puttaraju**
S/o Late. Nanjashetty
Aged about 53 years
 - 5. Guruswamy**
S/o Late. Nanjashetty
Aged about 50 years
 - 6. Chikkahennamma**
W/o Late. Mahadevashetty
Aged about 50 years
 - 7. Swamy**
S/o Late. Mahadevashetty
Aged about 30 years
 - 8. Nagamma**
D/o Thammaiahshetty
Aged about 50 years
 - 9. Karishetty**
S/o Tammaiahshetty
Aged about 45 years

10. Ganesha

S/o Tammaiahshetty

Aged about 43 years

All are R/at :

Beguru Village, Beguru Hobli

Gundlupete Taluk.

[Sri. PSG, Advocate for D1 TO 5]**[Sri. SR, Advocate for D9]****[D6 to 8 and 10 : Exparte]**

i.	Provision under which the application is filed	VII Rule 11(d) of Code of Civil Procedure
ii.	Relief sought for	Rejection of Plaintiff
iii.	The date on which the application is filed	06.01.2025
iv.	Number of the application	III
v.	The date on which the objections are filed by different opponents	04.02.2025
vi.	The date on which the orders were passed on the said application	28.10.2025

Stage: Further chief of PW-1**ORDER ON IA NO.III UNDER ORDER VII RULE****11(d) OF CIVIL PROCEDURE CODE**

The defendant No.9 has filed this application under Order VII Rule 11(d) of Code of Civil Procedure praying to reject the plaintiff for the reasons mentioned in the accompanying affidavit to the application.

2. In the annexed affidavit, the defendant No.9 has sworn that, the plaintiff has filed OS No.179/2023 before this Court for the relief of declaration and permanent injunction against the defendants. The suit schedule property stands in the name of the defendant No.8, 9 and 10. The defendant No.1 to 5 are cousins and strangers to this suit as no claim is made out against the so-called defendants. After framing of issues, the plaintiff had stepped into the witness box and adduced his side evidence stating that, the schedule property was an ancestral property and marked his side documents, suppressing the material facts and hence, the plaintiff has no prima-facie case and hence, suit shall be rejected. Moreover, the said suit is an outcome of OS No.125/2016 in the hands of this Court and the documents produced by the plaintiff stands in the name of the defendants and same is clear that, the plaintiff suppressed the material facts. Thereafter, the plaintiff had moved an application for the withdrawal of the suit with a liberty to file fresh suit. Hence, the plaintiff came up with the new suit rather having different parties to the suit and different narrations along with a different cause of action making the suit having different claims and different cause of action is bad at law and is not permitted. Moreover, the parties in OS No.125/2016 and this suit

are different in which it leads to change in nature of the suit and is not permissible and is bad at law. This Court lacks a jurisdiction to entertain the suit as the plaint fails to establish any prima-facie cause of action that falls within the jurisdiction of this Court.

3. It is further stated that, the schedule property is situated on the main road of the Begur – Gundlupete National Highway. Hence, the relief claimed with the plaintiff is undervalued and the valuation is not correct. Hence, the plaint shall be rejected as it is undervalued and no Court fees is paid in accordance with law. The averment made in the plaint discloses no cause of action and it is the duty of the Court to scrutinize the averments/pleas in the plaint. In other words, what needs to be looked into in deciding such an obligation or the averments in the plaint. At that stage, the pleas taken by the plaintiffs are wholly irrelevant and the matter is to be decided only on the plaint averment. The plaintiff has failed to produce any supporting documents or evidence to substantiate the claims made in the plaint. These principles have been reiterated in *Raptakos Brett & Co. Ltd., V/s Ganesh Property*, (1998) 7 SCC 184 and *Mayar (H.K) Ltd., v. Vessel M. V. Fortune Express*, (2006) 3 SCC 100.” 20. A perusal of the above authorities, the guiding

principle for deciding an application under Section VII Rule 11(d) has been explained. The defendant No.9 also stated that, the averments made in the plaint is not only be formal, but also meaningless, but has been cleverly drafted and created the illusion of a cause of action and a meaningful reading thereof would show that, the pleadings are manifestly vexatious and meritless. In the sense of not disclosing a clear right to sue. Hence, the Court should exercise its power under Order VII to 11 of Code of Civil Procedure as stated in 2021 SCC Online, SC 764 decided on 21.09.2021 between Rajendra Bajoriya V/s Hemant Kumar Jalan. When a plaint does not disclose a cause of action, the Court would not permit the plaintiff to unnecessarily protract the proceedings. The plaintiff has introduced new parties and a different cause of action compared to OS No.125/2016. It appears to be an attempt to create an illusion of a cause of action through clever drafting and same is not maintainable as per reported judgment (2004) 3 SCC 172 Pearlite Liners (P) Ltd. versus Manorama Sirsi. The present suit is barred under Section 7 Rule 2 and Section 11(d) of Code of Civil Procedure. The plaintiff has previously withdrawn OS No.125/2006 with liberty to file a fresh suit, but has now brought forth a suit with different parties,

which is impermissible. Hence, on all these grounds, prayed to reject the plaint.

4. On the other hand, the plaintiff has resisted this application by filing objections stating that, the application filed by the defendant No.9 is not maintainable either in law or on facts. It is further submitted that, the plaintiff has filed this suit for the relief of declaration and permanent injunction in respect to schedule property. The plaint averments may be read as part and parcel of this objection to avoid repetition of facts. In the para No.3 of the plaint, it is clearly stated that, the schedule property was belongs to the Late. husband of the plaintiff No.1 namely one Marishetty who acquired the same under the Registered Sale Deed dated 30.09.1967. The plaintiffs also stated that, the defendant No.1 to 10 are the legal heirs of the vendors of the husband of the first plaintiff and their relationship is explained in detail in Para No.4 of the plaint. Thus, the say of defendant No.9 in their affidavit to the effect that, the defendant No.1 to 7 are strangers to this suit and holds no water, as the plaintiffs have got every evidence to prove the said facts and merits in the case. The husband of the plaintiff No.1 who is the father of the other plaintiffs had purchased the plaint schedule property in Survey

No.144 measuring 4 acre 35 guntas with correct boundaries to the said land. However, at the time of execution of the registered sale deed by oversight and by mistake, the Survey number was mentioned as Survey No.146 measuring 5 acre 1 guntas. However, the boundaries mentioned in the said sale deed tallies to the land in Survey No.144 which is in actual possession of the plaintiffs. Besides, the plaintiffs also have explained a subsequent change to Survey number as 144/1 and 144/2 as detailed in the plaint schedule. The plaintiffs also have explained to the effect that, the original owner of the land in Survey No.144 and 146 were one and the same. The khata of the land in Survey No.146 was transferred in the name of the Late. husband of the first plaintiff and on the basis of the above said sale deed, even though they are in possession of the land in Survey No.144 described in the plaint schedule. The khata of the Land in Survey No.144 for the above said reasons continued in the name of the vendors of the Late. Marishetty even though they are in possession of the Land in No.146, besides, the Land in No.144 and Land in No.146 are adjacent to each other, wherein the Land in No.144 is situated on the Southern side and the Land in No.146 is situated on the Northern side. And

the plaintiffs have got ample of evidence to adduced in this case.

5. It is further submitted that, the plaintiffs have invoked several evidences and happenings in respect of schedule property and schedule property including the land deal made by the defendants in respect of the land in Survey No.146 which are more fully explained by the plaintiffs in the plaint. The plaintiffs also have explained regarding settlement took place between them and their vendors i.e., the ancestors of the defendants regarding change in Survey number, wherein with the consent of plaintiffs they have got changed the khatha into their name in respect of the land in Survey No.146. However, Marishetty, late husband of the plaintiff No.1 did not got changed the khatha of the land in Survey No.144 into their names due to ignorance and illiteracy and the defendants taking advantage of the fact that, the khatha of the land in Survey No.144 stands in their names got transferred in the names of the sons and daughters of Late. Chikka Thammaiah Shetty even though they are not in possession. The plaintiff also have explained as to how their rights over the schedule lands was denied by the defendants and made an attempt for interference at para No.16 of plaint. As such the suit

filed by the plaintiff is in order, is not barred by any law, nor it suffers from any deficiency. Hence, the application filed by the defendants invoking the provisions of Order VII Rule 11(d) is uncalled for this suit. The defendant in fact has filed the above application with mala-fide intention to drag on the proceeding, apprehending that they may suffer adverse decree against them in the suit. Hence, on all these grounds prayed to dismiss the application.

6. Heard arguments of plaintiffs and defendant No.9. Perused the materials on record.

7. The following points arise for consideration of this Court:

- 1.** Whether the defendant No.9 has made out grounds to allow the application?
- 2.** What order?

8. Findings of this court on the above points are as under:

Point No.1	:	In the Negative
Point No.2	:	As per final order, for the following:

REASONS

9. Point No.1: The instant suit is filed for the relief of declaration and permanent injunction in respect of the suit schedule properties.

10. This application is filed when the case is posted for further chief examination of PW-1.

11. Through this application the defendant No.9 has sought to reject the plaint as plaintiffs already filed suit for declaration and injunction in OS No.125/2016 and same has been withdrawn with permission to file fresh suit on sale cause of action. But the parties in the present suit and said suit are totally different and it does not shows cause of action and the suit of the plaintiffs is barred by law.

12. The reasons ventilated by the defendant No.9 in the affidavit annexed to the application are that already the plaintiffs have filed suit in OS No.125/2016 in respect of the same properties seeking the relief of declaration and permanent injunction and the said suit was withdrawn to file fresh suit on the same cause of action. But the plaintiffs have inserted some other parties in this suit and shown different cause of action and reliefs in the present suit. When such being the case this suit is not maintainable as it is bared by law and it does not disclose the cause of action. Hence prayed to reject the plaint.

13. The said application is resisted by the plaintiffs on various prisms known to fact and law. It is urged in

the suit which was filed by plaintiffs in OS No.125/2016 was withdrawn with liberty to file fresh suit on same cause of action. Accordingly plaintiffs files this suit with respect to same schedule property against the defendants. As such the defendants have not made out grounds to reject the plaint. Hence prayed to dismiss the application.

14. With these rival contentions in the back drop let me decipher these contention and view in the beacon of light of settled principles of O.7 R.11 of CPC. The provision which was invoked by the plaintiff is O.7 R.11 (d) of CPC which reads as hereunder: **Where the suit appears from the statement in the plaint to be barred by any law.** On condign understanding of the above said provision and also keeping the principles laid down by the Hon'ble Apex Court in catena of decisions the principles which emerges is that in order to decide whether a suit is bad by law it is the statement in the plaint which has to be construed. When this being the case it is relevant to fall back on the plaint averments to know as to whether the suit of the plaintiff is barred U/o.7 R.11 of CPC. It is the specific case of the plaintiffs that, the plaintiffs have been owners in possession of suit schedule property and it is also alleged in the plaint that defendants are

trying to alienate the suit schedule properties in order to dupe and defeat the rights of the plaintiffs as such the plaintiffs have filed the suit for declaration and permanent injunction. It is pertinent to note that, the plaint does not have any averments which depicts that the suit is barred by any law for that matter.

15. At the first instance, let me examine as to the contentions urged by the defendant No.9 to under Order 7 Rule 11 of CPC. **Order 7 Rule 11(a) to (f) of CPC** reads as hereunder:-

Rejection of plaint: The plaint shall be rejected in the following cases:

- (a) Where it does not disclose a cause of action;
- (b) Where the relief claimed is undervalued and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;
- (c) Where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;
- (d) Where the suit appears from the statement in the plaint to be barred by any law;

- (e) Where it is not filed in duplicate;
- (f) Where the plaintiff fails to comply with the provisions of Rule 9;

[Provided that the time fixed by the Court for the correction of the valuation or supplying of requisite stamp-papers shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-papers, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.

16. The plaint will be rejected if the plaint does not disclose cause of action. It is settled principles of law that, to reject the plaint on this ground, the court must look into the plaint alone and nothing else. The power to reject the plaint on this ground should be exercised only if the court comes to the conclusion that even if all the allegations set out in the plaint are proved, the plaintiffs would not be entitled to any relief. Certainly there is a distinction between the plaint does not disclose the cause of action and there is no cause of action for instituting the suit. For determining whether the plaint disclose the cause of

action or not, the averment in the plaint alone are relevant and material.

17. The plaintiffs in this suit has knocked the doors of justice for the relief of declaration and injunction. The cause of action urged by the plaintiffs for filing the suit is enumerated under paragraph No.9 in the plaint. According to the plaintiffs, the cause of action arose on 30.05.2023 when the order passed by this Court in OS No. 125/2016 for withdraw the suit to file fresh suit on the same cause of action and on 15.06.2023 when defendants came near the schedule land and tried to disposes the plaintiff from schedule property. On close perusal of the plaint averments, the relief claimed by the plaintiffs is by certain cause of action as narrated in the plaint as a whole and this Court has permitted to the plaintiffs to file this suit with same cause of action in OS 125/2016.

18. On close perusal of the plaint averments, the relief claimed by the plaintiffs is by certain cause of action as narrated in the plaint as a whole. The cause of action means every fact which it would be necessary for the plaintiffs to prove, if traversed, in order to support his right to the Judgment of the court. Furthermore, it is settled principles of law that, while

deciding application U/O.7 Rule 11(a) of CPC, the averments made in the plaint in its entirety has to be considered by taking those averments to be correct and the plaint cannot be rejected on the basis of allegations made by the defendant in the written statement or in the application for rejection of plaint.

19. It is arguments urged by learned counsel for the defendant No.9 that already suit in OS No.125/2016 was filed and withdrawn by the plaintiffs but the parties to this suit and said suit are different. While arguing the matter learned counsel for plaintiffs argues that the parties of this suit and OS 125/2016 are one and the same and some parties were died and hence, their representatives made as parties in this suit. Therefore, it is clear that when the parties of OS 125/2016 were died, their legal representatives were made as extra parties in this suit. When such is the case on this count only the contention urged by defendant No.9 is not tenable in the eye of law. It is to be noted that at this juncture while deciding application U/o.7 R.11 of CPC the court must not go into the roots of the case. No doubt, as held by the Hon'ble Apex Court in catena of decisions that the plaint which does not disclose the cause of action has to be nipped at bud. On perusal of the plaint averments in lieu of

beacon of light of the principles enshrined by the constitutional courts and also in view of the allegations leveled against the defendants in the plaint, it certainly discloses the cause of action to file this suit. The merits in the plaintiffs case can be certainly distinguished from that of failure to disclose cause of action. The cause of action is nothing to do with the defence which may be set up by the defendants, nor does it depend upon the character of the relief prayed for by the plaintiffs. It refers entirely to the grounds set forth in the plaint as the cause of action, or in other words, to the media upon the plaintiffs asks the court to arrive at a conclusion in their favour. It must be antecedent to the institution of the suit and on the basis of that cause of action the suit must have been filed. Whether any particular facts constitute a cause of action has to be determined with reference to the facts of each case, taking into consideration the substance of the matter rather than the form of action.

20. Reverting back to the factual matrix paragraph No.9 of the plaint the averment coupled with the various averments in the plaint clearly reveals that there is cause of action for filing the present suit. When such being the case the contention urged by the defendant No.9 stating that the suit of the plaintiff

does not reflect cause of action does not hold any water.

21. The learned counsel for plaintiff relied on decision reported in (2006)1 SER 860 between Mayar (HK) LTD., and ORS V/s Owners & parties, Vessel M.V. Fortune express & ORS decided on 30.01.2006, ILR 1995, KAR 3420 between Mahammed ali V/s Dawood Basha. WP No. 201083/2018. I have perused the aforesaid decision relied by the learned counsel for plaintiff. The said decisions support the case of the plaintiffs.

22. The learned counsel for defendant No.9 furnished sub register value of the property of Raghavapura village, wherein it is mentioned as Rs.4,50,000/- value is fixed per acre of land. The plaint schedule property is also situated at Raghavapura Village. But, in order to consider the application under Order 7 Rule 11 of CPC only plaint averment has to be considered as stated in the aforesaid decisions. On perusal of plaint averment and valuation slip furnished by the plaintiff, value of the suit property comes within the jurisdiction of this Court. Under such circumstances, the contention of the defendant No.9 is unsustainable.

23. As a last row to the sinking boat, the learned counsel for the defendants contended that, when the plaint does not disclose cause of action it can be rejected per say. It is also stoutly urged that, ***If clever drafting of the plaint has created the illusion of a cause of action, the court will nip it in the bud at the earliest so that bogus litigation will end at the earlier stage.*** The said principles cannot be made applicable to the facts of the instant case on hand, for the simple reason that in the instant case on hand the cause of action to file the suit is enumerated in paragraph No.9 of the plaint. Further more on conspectus reading of the plaint and on condign understanding of the plaint averments it is clearly forth coming that there is a cause of action to file the suit as the plaintiffs are seeking for the relief of partition and separate possession. Further more the cause of action is the bundle of facts which leads the plaintiffs to file the suit. When such is the case absolutely the contention urged by the defendant No.9 as there is no cause of action to file the suit does not hold any water. No prejudice will be caused to the defendant No.9 if this application is rejected. The defendant No.9 can very well urge their rights in demolishing the claim of the plaintiffs during the course of trial. The defendant No.9 have not made out

grounds to nip in the bud the plaintiff's case by invoking O.7 R.11 of CPC. The application filed by the defendants lacks merits. In the touchstone of the reasons above and discussions engulfed, this court answer **Point No.1 in the Negative.**

24. Point No.2: In view of aforesaid findings on Point No.1, this Court proceed to pass the following:

ORDER

The I.A. No.III filed by the defendant No.9 under Order VII Rule 11(d) of Code of Civil Procedure is hereby dismissed.

In view of facts and circumstances of the case no order as to costs.

[Dictated to the Stenographer, transcribed by her, corrected by me and then pronounced in the open Court on this the **28th day of OCTOBER, 2025**]

(DEEPU M. T)
Prl. Civil Judge & JMFC.,
Gundlupet.