

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 2nd day of JULY, 2026

OS No.111/2022

Plaintiff : Basappa
Aged about 73 years
S/o Late. Muddappa
R/at: Nitre Village
Beguru Hobli, Gundlupet Taluk.

[By Sri. HVR, Advocate]

V/s

Defendants : 1. Shankaramma
Aged about 50 years
W/o Rajappa

2. Basamannamma
Aged about 58 years
W/o Basavarajappa

3. Kusappa @ Madappa
Aged about 60 years
S/o Late. Madappa

4. Puttatayamma
Aged about 60 years
W/o Puttabuddappa

5. S Mahadevaswamy

Aged about 45 years
S/o Shivappa

6. Mahadevamma

Aged about 50 years
W/o Mahadevappa

7. Nagesha

S/o Shivappa

8. Ganesha

S/o Kusappa

All are R/at: Nitre Village
Beguru Hobli
Gundlupet Taluk.

[Sri. BB, Advocate]

Parties to I.A No.V

Applicant : Nagesh
- Defendant No.7

V/s

Opponent : Basappa
- Plaintiff

Stage : For Arguments

ORDER ON IA NO.V UNDER ORDER VII RULE 11(a)
AND (d) AND SECTION 11(2) OF KARNATAKA
COURT FEES AND SUIT VALUATION ACT 1958
R/W SECTION 151 OF CPC

The defendants have filed this application praying to reject the plaint as the plaintiff has not paid sufficient Court fees.

2. In the annexed affidavit to the application, the defendant No.7 has sworn that, he is swearing this affidavit on his behalf and also on behalf of other defendants. The plaintiff has filed this suit against defendants for the relief of permanent injunction with respect to suit schedule properties. On the previous date of hearing, the case was posted for cross-examination of PW1, but due to unavoidable circumstances, his counsel unable to conduct cross-examination of PW1. On 19.07.2025 at the time of cross-examination of PW1, the plaintiff has filed application under Order VI Rule 17 of CPC and inserted the new prayer i.e., declaration relief. But, the plaintiff not paid the Court fees for the value of the suit schedule properties and this Court directing the plaintiffs to furnish a fresh valuation slip with Court fees regarding additional Issue No.1 and the case was posted

to 31.07.2025. Thereafter, the plaintiff filed fresh valuation slip regarding additional Issue No.1 and paid the Court fee of ₹.25/-. This Court fee is insufficient regarding the prayer of the plaint. As per the amendment, suit is for declaration and permanent injunction. When the declaration and permanent injunction reliefs sought in the prayer column, the plaintiff must be paid the Court fee under Section 24(b) of Karnataka Court Fees and Suit Valuation Act. But, here the plaintiff is not in possession of the schedule property and he is already admitted in the cross-examination of PW1 as he is not in possession of scheduled property. Thereafter, the plaintiff has filed application under Order 6 Rule 17 of Code of Civil Procedure to insert the prayer of declaration. If the declaration relief claimed on the schedule properties, the plaintiff must be calculated the Court fee based on the market value of the schedule property. But the plaintiff has not produced any documents from the Sub-Registrar of consent Taluk and simply the plaintiff paid the Court fees of ₹.25/- and calculated as per Section 24(d) of Karnataka Court fees and Suit Valuation Act. Hence, the Court fees paid by the plaintiff is insufficient to adjudicate the matter as stated

supra. If the application is not allowed, the defendants will be put to great hardship and inconvenience. Hence, on all these grounds prayed to allow the application.

3. On the other hand, the plaintiff has resisted this application by filing objection contending that, the application filed by defendants is not maintainable either in law or on facts. It is further submitted that, the matter is in the stage of argument and at said point of time, the application filed by defendants is not maintainable. The plaintiff has already paid Court fees regarding declaration relief. Therefore, there is no grounds to allow the application filed by the defendants. Hence, the application filed by the defendants is liable to be dismissed with costs. Accordingly, prayed to dismiss the application.

4. Heard the arguments of the learned counsel for plaintiff and defendants. Perused the materials on record.

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

1. Whether the application U/o VII Rule 11(a) and (d) and Section 11(2) of Karnataka Court Fees and Suit Valuation Act-1958 R/w Section 151 of Code of Civil Procedure filed by the defendants deserves to be allowed?

2. What order?

6. Findings of this Court to the above points are as under :

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

REASONS

7. Point No.1: On perusal of records, it appears that, the plaintiff initially filed this suit for the relief of permanent injunction against the defendants and subsequently amended the prayer by inserting relief of declaration of his title over the schedule properties. The defendants have appeared in this suit and resisted the claim made by the plaintiff. The defendants have filed a present application praying to reject the plaint as the plaintiff has not paid sufficient Court fees.

8. Further, in the application, the defendants have taken contention that, the plaint is liable to be rejected as per Order VII Rule 11(a) and (d) and Section 11(2) of Karnataka Court Fees and Suit Valuation Act R/w Section 151 of Code of Civil Procedure. But, they have taken contention that, the plaintiff has not paid sufficient Court fees. The said issue comes under Order 7 Rule 11(c) of Code of Civil Procedure. It is settled principle of law that, mere mentioning of wrong provision is not a fatal to the case of the defendants. Therefore, through the present application, the defendants have sought for rejection of plaint on the ground that, the plaintiff has not paid sufficient Court fees regarding declaration relief and plaintiff has to pay the Court fees as per Section 24(b) of Karnataka Court Fees and Suit Valuation Act. The same has been resisted by the plaintiff and contented that, the plaintiff has paid Court fees of ₹.25/- regarding declaration relief and hence, the application filed by the defendants is not maintainable.

9. I have perused the plaint averments, relief sought by the plaintiff, present application with annexed affidavit, objections and arguments of learned

counsel for defendants and plaintiff. This is a suit for declaration and permanent injunction against defendants in respect of plaint schedule properties. The plaintiff has sought for relief of declaration to declare that, the plaintiff is the absolute owner of plaint schedule properties and restrained the defendants from interfering to the possession of plaintiff over plaint schedule properties. At the time of filing this suit, the plaintiff has sought for relief of permanent injunction only and paid Court fees of ₹.25/- U/s 26(c) of Karnataka Court Fees and Suit Valuation Act. Subsequently, the plaintiff has amended the prayer and inserted relief of declaration of his title over schedule properties. In respect of the same, the plaintiff has filed additional valuation slip with Court fees of ₹.25/- on 31.07.2025. The same has been disputed by the defendants contending that, the plaintiff has to pay the Court fees based on the market value of the plaint schedule properties. On perusal of plaint schedule properties, it depicts that, the item No.1 and 2 of plaint schedule properties are the landed properties. When the schedule properties are landed properties for the purpose of Court fees, the revenue of the landed property has to be accessed. Under such circumstances,

the valuation slip and additional valuation slip with Court fees furnished by the plaintiff is in accordance with law.

10. Further, when the schedule properties are landed properties, the Court fee has to be assessed based on the revenue of the landed properties as per Section 7 (2) (b) of Karnataka Court Fess and Suit Valuation Act. Though the defendants have mentioned provision under Order VII Rule 11(a) and (d) in the application they have not contended that, the suit of the plaintiff is barred by law and there is no cause of action. Therefore, the defendants have filed this application contending that, the Court fees paid by the plaintiff is not in accordance with law. But, on perusal of the relief sought by the plaintiff and valuation slips and Court fees paid by the plaintiff, the plaintiff has paid sufficient Court fees for the purpose of considering present application. Only the plaint averments shall be looked into. According to the plaint averments and relief sought by the plaintiff, the plaintiff has paid sufficient Court fees. Under such circumstances, the defendants have failed to made out grounds to allow this application. With these observations this Court has answered **point No.1 in the Negative.**

11. Point No.2: In view of the findings on the point No.1 this court proceed to pass the following:

ORDER

The IA No.V filed by the defendants U/o VII Rule 11(a) and (d) and Section 11(2) of Karnataka Court Fees and Suit Valuation Act-1958 R/w Section 151 of Code of Civil Procedure is hereby dismissed.

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

[Directly dictated to the Stenographer on the computer, corrected, initialed and then pronounced by me in the open Court on this the **2nd day of JULY, 2026**]

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