

KACN320019232015



IN THE COURT OF THE ADDL. CIVIL JUDGE & JMFC,
AT KOLLEGALA

PRESENT : SRI. M. RANJITH KUMAR B.A,L' L.L.B.
Addl. Civil Judge & JMFC., Kollegala.

Dated on this the 05th day of July 2025

O.S. NO.215/2015

Plaintiffs : 1. Mahadevashetty S/o Late Madashetty
Since dead represented by his Lrs

1(a) Smt. Shivamma
W/o Late Mahadevashetty,
Aged about 38 years,

1(b) Sri. Yogesh M.
S/o Late Mahadevashetty,
Aged about 21 years,

1(C) Sri. Chandan M.
S/o Late Mahadevashetty,
Aged about 19 years,

Plaintiff No.1(a) to 1(c) are R/At:

Nanjundaswamy Nagar,
Madhuvanahalli Village,
Kollegala Taluk,
Chamarajanagar District.

2. Smt. Lingarajamma
W/o Puttabasappashetty,
Aged about 42 years,
3. Sri. Mahadevashetty
S/o Late Veerashetty,
Aged about 48 years,
4. Smt. Nanjamma
W/o Siddappaswamy,
Aged about 37 years,

Plaintiff No.2 to 4 are R/At:

Gavarigara Beedi,
Dodda devasthana Beedi,
Madhuvanahalli Village,
Kollegala Taluk,
Chamarajanagar District.

Versus

Defendants : 1. Sri. Ashok Kumar
S/o Late Chennabasappa,

Aged about 55 years,
R/at: M.M.Hills Road,
Madhuvanahalli Village,
Kollegala Taluk,
Chamarajanagar District.

2. Smt. Janakamma
W/o Late Veerashetty,
Aged about 50 years,
3. V. Jagadish S/o Late Veerashetty,
Since dead represented by his Lrs
- 3(a) Smt. Sashikala
W/o Late Jagadish,
Aged about 34 years,
- 3(b) Pavithra
D/o Late Jagadish,
Aged about 17 years,
- 3(c) Prajwal S/o Late Jagadish,
Aged about 15 years,
Since Defendant No.3(b) & 3(c) are
minor represented by their guardian
mother Defendant No.3(a)

4. Sri. V. Nandeesh S/o Late Veerashetty,
Aged about 33 years,
Defendant No.2 to 4 are R/At:
Gavarigara Beedi,
Dodda devasthana Beedi,
Madhuvanahalli Village,
Kollegala Taluk,
Chamarajanagar District.

INTERIM APPLICATION NO -XIII

Applicants/ : Sri. V. Nandeesh
(Defendant No.4)

Versus

Opponents/ : Sri. Mahadevashetty
(Plaintiffs) Since dead represented by his Lrs

ORDER ON IA-XIII

1) The defendant No.1, 2 & 4 have filed the IA No.XIII under Order VII Rule 11(a) & (d) R/w Section 151 of Code of Civil Procedure, seeking rejection of plaint, as suit is barred by law of limitation and the suit does not disclose cause of action. It is the contention of the defendants that, the plaintiffs in

their suit are challenging the Sale Deed dated 08.01.1986 and they have filed the present suit in the year 2015. Thus the suit is barred by law of limitation. Further the plaintiffs are trying to establish their title vide century old document dated 10.05.1898, since the Sale Deed dated 08.01.1986 is registered document it holds presumptive value of public notice to which the plaintiffs ought to have acquaintance with.

2) In counter to the application the plaintiffs have filed their objection by contending that the suit schedule property is originally belongs to their ancestors i.e., Sri. Veerashetty which he had purchased on 10.05.1898 and the defendant No.1 who is a stranger and belongs to other community than of plaintiffs, without having any rights and whatsoever without consent of the family of plaintiffs have alienated suit schedule-B property. Further contends that the defendants have filed the present IA in order to prolong the proceedings and to harass the plaintiffs, hence prayed for dismissal of the IA.

3) Heard learned counsel for the defendant No.1, 2 & 4 and learned counsel in his argument in support of IA No-XIII has relied on following authorities, ***M/s Sushrutha Vishranthi Dhama Pvt. Ltd. Vs. Dr. M.P.Somaprasad and Ors in Civil Revision Petition No.318/2024 dated 20.06.2025, in the case of P.R.Chenna Reddy Vs. Smt. Parvathamma and Others reported in 2021 (2) Kar. L.R 843, in the case of G. Nagaraju Vs. Sri. Ramesh and Others reported in 2023 (2) Kar. L.R 433.***

4) Heard learned counsel for the plaintiffs, learned counsel in support of his argument on IA No-XIII has relied on the following authorities ***Mohammed Fayaz Ali Vs. State of Karnataka through Tahasildar, Humnabad reported in 2023 (1) KCCR 775, Meera Bai Kotekar (Mrs.) and Others Vs. Metro Bankers Enclave and Another reported in HCR 2025 Kant.184, Mithun Vs. Smt. Charita Sunil Kumar Sandra and Others reported in HCR 2024 Kant.324, Kum. Geetha, D/o Late Krishna and Others Vs.***

Nanjundaswamy and Others reported in HCR 2024 S.C.121, Smt. Nanjamma and Others Vs. Sri. Narayanaswamy and Others reported in 2025 (1) KCCR 67, Smt. Sujata Vs. The Panchayath Development Officer, Gram Panchayath Shiggalli, Gadaga District reported in 2025 (1) KCCR 71, Syed Amanulla and Others Vs. Smt. Mehar Taj @Faizunnisa and Another reported in HCR 2016 Kant.422 and further contended that when a question of limitation is involved then the suit cannot be rejected under Order VII Rule 11 of Code of Civil Procedure without contending full fledged trial as it is mixed question of fact and law.

5) Perused materials on record, accordingly the following are the points for consideration of this court.

- 1. Whether the plaint of the plaintiffs deserves to be rejected under the principles of Order VII Rule 11 of CPC?*
- 2. What order ?*

6) For the foregoing reasons, this court answers the above points for consideration as hereunder.

Point No.1 – In the Negative

Point No.2 – As per final order.

REASONS

7) Point No.1:-

The defendant No.1, 2 & 4 have filed the IA No.XIII under Order VII Rule 11(a) & (d) R/w Section 151 of Code of Civil Procedure, seeking rejection of plaint, on the grounds that the suit of the plaintiffs is barred by law of limitation and though the plaint does not disclose the cause of action it amounts no cause of action.

8) It is the plaintiffs case for the relief of possession and declaration wherein it is the contention of the plaintiff that the suit schedule property is originally belonged to their ancestor one Sri. Veerashetty S/o Siddashetty, said Sri. Veerashetty and his wife Smt.Javanamma had only son Sri. Madashetty, said Sri. Madashetty had two children Sri. Madashetty and

Sri. Veerashetty and the plaintiffs are the legal heirs of said Sri. Madashetty and Sri. Veerashetty. The defendant No.1 is stranger to the family of the plaintiffs who belongs to other community than of the plaintiffs, without consent and knowledge of the family members of the plaintiffs, has illegally executed Sale Deed with respect to suit schedule-B property vide Sale Deed dated 08.01.1986 in favor of defendant No.2 to 4 and the plaintiffs have come to the knowledge of the said fact when the defendants prior to 2 to 3 years of filing of the suit started constructing house in the schedule-B property.

9) It is well settled principle that for consideration of application under Order VII Rule 11 of CPC, the court must look into only plaint and plaint documents. Now addressing the grievance of the defendants, it is their contentions that since the plaintiffs are challenging the document of the year 1986 which is registered document to which there is presumptive value of public notice, they must have filed the

suit within three years from the date of execution of the said Sale Deed.

10) Article 58 of the Limitation Act deals with the suit for declaration and Article 65 of the Limitation Act deals with the suit for possession of immovable properties based on title, wherein for a suit for declaration, the period of limitation is three years from the date when right to sue accrues and for suit for possession based on title period of limitation is 12 years from the day possession of defendants becomes adverse to the plaintiffs.

11) The present suit is for possession based on title, hence the limitation for the present suit is 12 years from the date when possession of defendants became adverse to the plaintiff. The plaintiff contention regarding cause of action is that the possession of defendants over the suit schedule property became adverse to them prior to 2 to 3 years from the date of filing of the suit when the defendants started constructing house in the schedule property. Considering the

cause of action pleaded by the plaintiff the suit is well within the time.

12) But the defendants claims that the cause of action pleaded by the plaintiff is cleverly drafted to over come the law of limitation but there are no materials to show that the possession of the defendants was become adverse to the plaintiffs even before the time which the plaintiffs pleading in their plaint. Thus under such circumstances this court at this stage of proceedings cannot look into genuinity of the cause of action pleaded by the plaintiffs and to which full pledge trial is quint essential and with regard to the contentions of the defendants on genuinity of the genealogy of the plaintiffs is concerned it is to plaintiffs to prove their genealogy in the full pledge trial. Thus as rightly argued by the learned counsel for the plaintiffs when in a suit a question of limitation is involved, since the question of limitation is mixed question of fact and the court cannot reject the plaint without full pledge trial is necessary. Hence this court is of the opinion that the

plaint of the plaintiffs does not deserves to be rejected under the principles of Order VII Rule 11 of Code of Civil Procedure. Accordingly this court answers the **Point No.1 in the Negative.**

13) POINT NO.2: For the reasons stated above this court proceeds to pass the following order.

:- ORDER :-

IA No.XIII filed by the defendant No.1, 2 & 4 under order VII Rule 11(a) & (d) R/w Section 151 of Code of Civil Procedure is hereby dismissed.

(Dictated to the stenographer, transcribed and typed by him, the same is corrected, signed and then pronounced by me in the open court on this the 05th day of July 2025).

(M. RANJITH KUMAR)
Addl.Civil Judge & JMFC.,
Kollegala.