

IN THE COURT OF THE I ADDITIONAL SENIOR CIVIL
JUDGE & J.M.F.C., HUBBALLI

Present:

SMT. SARVAMANGALA K.M.,
B.A. LL.B.,
I Additional Senior Civil Judge and JMFC.,
Hubballi.

O.S. No.143/2025

Dated this the 22nd day of January, 2026

Plaintiff/s : Shri. Mahadevappa S/o Ningappa
Ayatti.

.Vs.

Defendant/s : Smt. Shantavva W/o
Channabasappa Unkal and others.

PARTIES TO I.A. No.V

Applicant/s : Smt. Shantavva W/o
Defendant Channabasappa Unkal and others.
No.1 to 5

.Vs.

Opponent/s : Shri. Mahadevappa S/o Ningappa
Plaintiff Ayatti.

- i. Provision under which : Under Order VII Rule 11(D)
application is filed R/w Sec.151 of CPC
- ii. Relief sought for : Seeking for rejection of the
plaint filed by the plaintiff.
- iii. The date on which : 28.07.2025
application is filed

- iv. Number of the : V application
- v. The date on which : 10.10.2025 objections are filed by different opponents
- vi. The date on which : 22.01.2026 orders were passed on the said application

ORDERS ON I.A. No.V

The defendant No.5 has filed an I.A. No.V under Order VII Rule 11(D) R/w Section 151 of C.P.C., seeking for rejection of the plaint filed by the plaintiff.

- 2. *The plaintiff has filed objections.*
- 3. *Heard arguments.*
- 4. *The points for consideration are as follows:*
 - 1. *Whether the defendant No.5 has made out grounds enunciated under order 7 Rule 11 (D) to reject the plaint filed by the present plaintiff?*
 - 2. *What order ?*
- 5. *My findings on the above points are as follows:*
 - Point No.1 : In the Negative.*
 - Point No.2 : As per final order, for the following;*

REASONS

6. **Point No.1:** *This suit is filed by the plaintiff for the relief of declaration and permanent injunction against the defendants. The present application is supported by an affidavit. It is stated by the defendant No.5 that the relief claimed by the plaintiff is barred under the provisions of The Karnataka Land Reforms Act. Further he is not even the family member of a deceased Channabasappa, as such basically the suit itself is not maintainable as per the Karnataka Land Reforms Act and he has no right to lay any claim through an alleged Will in and over the property which was a tenanted property Governed under the provisions of Karnataka land reforms act. As such the suit of the plaintiff be dismissed in limine. The suit property is the granted land to deceased Channabasappa under the Karnataka Land Reforms Act. After the demise of Chanabasappa on 11.09.1982 the Hon'ble Tribunal has issued form No.10 to the legal heirs of deceased Channabasappa on 21.12.2011 as such the entire claim of the plaintiff is barred under law i.e., Karnataka Land Reforms Act. Hence, prayed to allow the application.*

7. *The objections of the plaintiff is that the application is false, frivolous, vexatious and not tenable in law. The plaintiff is the member of the family and bequeath in favour of the plaintiff is not barred under*

the provisions of the Karnataka Land Reforms Act since the plaintiff is the son of sister of the deceased executant of the Will. Therefore, the application is liable to be rejected.

8. *On careful perusal of the said materials available on record it is noticed to the Court that the plaintiff filed the present suit for the relief of declaration declare that he has become the absolute owner of the suit property by virtue of the will dated 05-04-1982 executed by Channabasappa S/o Channapa Rotti @ Unkal in his favour, and consequential relief of Permanent Injunction. When the matter is set down for summons to remaining defendants the defendants have filed the present application seeking above said relief. Taken contention that, that the relief claimed by the plaintiff is barred under the provisions of The Karnataka Land Reforms Act. Further he is not even the family member of a deceased Channabasappa, as such basically the suit itself is not maintainable as per the Karnataka Land Reforms Act and he has no right to lay any claim through an alleged Will in and over the property which was a tenanted property Governed under the provisions of Karnataka land reforms act. As such the suit of the plaintiff be dismissed in limine. The suit property is the granted land to deceased Channabasappa under the Karnataka Land Reforms*

Act. After the demise of Chanabasappa on 11.09.1982 the Hon'ble Tribunal has issued form No.10 to the legal heirs of deceased Channabasappa on 21.12.2011 as such the entire claim of the plaintiff is barred under law i.e., Karnataka Land Reforms Act.

9. *On the otherhand it is the specific contention of the plaintiff is that, he is the sister son of deceased Channabasappa. During his life time he bequeathed his tenanted land in his favour by virtue of will, but the defendant contention that after the death of deceased their father Form No-10 has been issued in their names, therefore the suit of the plaintiff is not maintainable, The counsel for plaintiff vehemently argued that The father-in-law of the plaintiff was cultivating the suit land as tenant during his lifetime. Therefore, after commencement of the Karnataka Land Reforms Act, he had filed Form No. 7 on 28.07.1974 to the Hon'ble Land Tribunal, Hubballi for grant of occupancy rights. The plaintiff was also assisting the applicant in cultivation of the suit land and also looking after him very nicely along with his mother. Therefore he had lot of love and affection towards the plaintiff and out of the above said love and affection he has bequeathed his tenancy rights in and over the suit land in favour of plaintiff who has not None other than the son of his own sister on 05.04.1982. But the suit land is bequeathed before*

grant of occupancy rights. The Executant has executed the will in question on 05.04.1982, but he died on 11.09.1982. Since there was dispute with regard to the suit land before the Land Tribunal, Hubballi, till 2011 occupancy rights were not granted in favour of the original tenant. Thereafter, the legal heirs of the deceased executed of the will often consented for mutating the name of the plaintiff, but later they turned hostile. Therefore, that was forced the plaintiff to initiate revenue proceedings against the defendants. The revenue proceedings ended against the plaintiff on the ground that the will is not probated. The defendant no. 1 to 5 are only disputing the will in question. Therefore, after disposal of the writ petition, the plaintiff has filed this suit for declaration against the defendants.

But as per the contention of the defendant, will is prohibited under the Provisions of Karnataka Land Reforms Act. Therefore, the bequeath is in question is it by Section 61 of Karnataka Land Reforms Act. On the other hand it is the contention that as per section 21 of the Karnataka Land Reforms Act bequeathing of tenancy rights in favour of his relatives is not prohibited. And also submitted that as per Section 61 of Karnataka Land Reforms Act. Therefore, as per the argument of counsel for plaintiff, bequeathing of tenancy rights is not prohibited under Section 21 of the KLR Act In favour of his relatives, Further argued that application for grant of

occupancy rights submitted on 23.08.1974 and he was granted occupancy rights on 21.12.2011. Said application was still pending as bequeathing his tenancy rights in favour of the plaintiff, who is none other than is son of his sister. Further argued that Section 61 of the Karnataka Land Revenue Act, tenant who has been granted occupancy rights cannot assign his occupancy rights in favour of any person for the period of 15 years from the date of such grant. But in this case as submitted the occupancy rights were not at all granted in favour of the original tenant. Therefore he was only protected tenant. Hence absolutely there was and is no bar to transfer the property by the tenant who has not been granted occupancy rights for the period of 15 years from the date of such grant. And tenant was a protected tenant therefore Section 61 cannot be made applicable to the present case on hand to say that transfer of the tenanted land is prohibited under Section 61. And on contrary such transfer of tenancy rights by way of will is not prohibited under Section 21 of the Karnataka Land Reforms Act.

During the course of argument, the counsel for plaintiff relied upon a decision reported in AIR 1998 SC page 3229 in case of Sangappa Kalyanappa Bangi v/s Land Tribunal. Wherein this decision, the Hon'ble Supreme Court held that Assigning any interest in favour of strangers by way of will is not permissible.

What is permissible is the assignment must be in favour of legitimate kinship.

Further relied upon ILR 2008 Karnataka page 1568, wherein their Lordships has held as follows: In the larger terms what is being stated by the Apex Court is that tenant can assign his rights only to his relatives including his descendants. It is not clear as to whether such bequeathing the property is to be made in the order of succession.

Further relied upon the decision reported in AIR Online 2019 SC, page 2378. Wherein this decision, the Hon'ble Supreme Court has held that the bequeth of tenanted land in favour of kinship is permissible. Therefore, any attempt made by the Defendant no. 1 to 5 that bequeath of the tenanted land is prohibited by Section 61 of KLR Act without any substance.

Further, during the course of argument, counsel for defendant no. 1 to 5 relied upon a decision reported in RSA No. 5460/2013 clubbed with RSA No.6005/2013 of our Hon'ble High Court of Karnataka contending that assignment of tenancy rights is prohibited under Section 61 of Karnataka Land Reforms Act. But in the present case on hand, as on the date of execution of the will and even as on the date of execution, occupancy rights were not granted and he was only a protected tenant. But in the case relied by the counsel for defendant no 1 to 5, the occupancy rights were granted in favour of the

executants of the will. Therefore, Said facts and circumstances of the case relied by the counsel for defendants totally differs from each other. Anyhow, the present plaintiff has filed the present suit for declaration. declaring that he is the absolute owner of the suit property by virtue of a will said to have been executed by one Channa Basappa, who is the brother of the plaintiff's mother. At the outset of the above said suit and the application filed by the defendants, it is well settled that while considering an application under Order VII Rule 11 of CPC, the court has to look only into the averments made in the plaint. And the defence taken by the defendant cannot be looked into at this stage. The plaint averments alone are germine to Decide whether the suit is barred by any law. On careful perusal of the plaint averments, the plaintiff has specifically pleaded that Channabasappa was the absolute owner of the suit-schedule property and that he executed a will in favour of the plaintiff. The plaintiff has sought a declaration of title based on the said will. In such circumstances, whether the suit-schedule property is a granted land? Whether occupancy rights were conferred under the Karnataka Land Reforms Act? Whether the will is hit by Sections 21 and 61 of the said Act? And whether Channa Basappa had any right to execute the will? Said facts are a mixed question of law and fact, which requires evidence to be let in by both

parties. Such disputed questions cannot be decided at the stage of Order VII Rule 11 of CPC. The bar of law pleaded by the defendant is not apparent on the face of the plaint itself. Hence the plaint cannot be rejected at that threshold.

10. In this regard this Court relied upon the decision of Hon'ble Supreme Court in between Madanuri Sri Rama Chandra Murthy vs. Syed Jalal (2017) 13 SCC 174, held as under:

“The plaint can be rejected under Order VII Rule 11 if conditions enumerated in the said provision are fulfilled. It is needless to observe that the power under Order VII Rule 11, CPC can be exercised by the Court at any stage of the suit. The relevant facts which need to be looked into for deciding the application are the averments of the plaint only. If on an entire and meaningful reading of the plaint, it is found that the suit is manifestly vexatious and meritless in the sense of not disclosing any right to sue, the court should exercise power under Order VII Rule 11, CPC. Since the power conferred on the Court to terminate civil action at the threshold is drastic, the conditions enumerated under Order VII Rule 11 of CPC to the exercise of power of rejection of plaint have to be strictly adhered to. ...

Even when, the allegations made in the plaint are taken to be correct as a whole on their face value, if they show that the suit is barred by any law, or do not disclose cause of action, the application for rejection of plaint can be entertained and the power under Order V11 Rule 11 of CPC can be exercised. 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”.

17. In our considered opinion, the Trial Court had rightly allowed the application of the defendants/appellants under Order 7 Rule 11 CPC, holding that the suit filed by the plaintiffs was a meaningless litigation, that it did not disclose a proper cause of action and was barred by limitation. There were thus no justifiable reasons for the appellate court to have remanded the matter to the Trial Court.

Further, relied upon the decision reported in Civil Appeal No.7109/2025 (Arising out of SLP (C) No.4862/2025) in between Vinod Infra Developers Ltd., Vs. Mahaveer Lunia and others, held as under:

Plaint may be rejected under Order 7 Rule 11 CPC only if on plain reading it discloses no cause of action or falls within narrowly defined grounds-plaint cannot be rejected in entirety merely because one prayer or relief is legally untenable. ..

Therefore this Court is of the considered opinion that the application filed by the defendant under Order VII Rule 11 of CPC is devoid of merits and liable to be rejected. after considering all these facts, this court has answered point No.1 in the Negative.

*11. **Point No.2** :- On the basis of my reasons on point Nos.1, I proceed to pass the following :*

ORDER

The Application / I.A. No.V filed by the defendant No.1 and 5 under Order VII Rule 11(D) R/W Section 151 of CPC

*praying for reject the plaint filed by the
plaintiff is hereby rejected.*

*(Dictated to the Stenographer directly on computer, script corrected and
then pronounced by me in the Open Court on this the **22nd day of January,**
2026)*

sd/-

*(Smt. Sarvamangala K.M.)
I Addl. Senior Civil Judge and JMFC.,
Hubballi.*