

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.332/2024

Dated this the 09<sup>th</sup> day of December, 2025

Plaintiff/s : Mahadevappa S/o Karaveerappa  
Ullagaddi.

.Vs.

Defendant/s : Shri. Shekhargouda S/o  
Shivanagouda Hittalamani and  
others.

**PARTIES TO I.A. No.V**

Applicant/s : Shri. Shekhargouda S/o  
Shivanagouda Hittalamani and  
others.

.Vs.

Opponent/s : Mahadevappa S/o Karaveerappa  
Ullagaddi.

- i. Provision under which : Under Order VII Rule 11(a)  
application is filed and (d) 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 : 01.07.2024  
application is filed*
- iv. *Number of the : V  
application*
- v. *The date on which : 19.08.2025  
objections are filed by  
different opponents*
- vi. *The date on which : 09.12.2025  
orders were passed on  
the said application*

### **ORDERS ON I.A. No.V**

*The defendants have filed an I.A. No.V under Order VII Rule 11(a) and (d) R/w Section 151 of C.P.C., seeking for rejection of the plaint filed by the plaintiff.*

*2. In the annexed affidavit the defendant No.10 averred that the present suit is neither maintainable under law nor on facts of the case. The framing of the suit and prayer itself are misconceived one and alien to the provisions of law. The plaintiff has created and concocted the suit document, which is an unregistered sale deed alleged to be executed by the defendants, which is not at all a document in the eye of law. The plaintiff has sought relief of declaration of title over the suit schedule property on the basis of an unregistered sale deed dated:15.06.2017. Whereas, through said document no rights whatsoever have accrued to the plaintiff to claim the title and possession over the suit*

*schedule property. The alleged suit document is an unregistered sale deed, which does not create any rights in favour of plaintiff. The alleged suit document is hit by section 17 and 49 of Indian Registration Act and as such suit is barred by law. Further without having any rights in and over the suit schedule property, the plaintiff cannot file present suit, as without any rights there will not arise any cause of action. Hence, prayed to allow the application.*

*3. On the other hand, the counsel for plaintiff filed objections to the said I.A. contended that The interim application filed by the defendant is not legally binding and is an interim application which is liable to be struck out. The pleadings filed by the plaintiff while filing the suit before this court clearly state the cause, date and subject of the suit. All of which were examined by this court and summons were issued to all the defendants regarding the said matter. Even though the defendants were aware of the same, they submitted the application before this court with false information. When the defendants received the summons from the court, they had appointed lawyers and had filed their defences to the suit. Even before filing of the defence, none of the defendants had raised any cause of action for the suit and no plea had been filed by them claiming that the suit was out of time under the limitation Act.*

*The reason for filing application is not binding as the case has not arisen for the considered claim and the claim filed by the plaintiff has been without delay. The plaintiff was never given because there was a contract between the plaintiff and the father of the defendant no. 10 and all other defendants had entered into transaction together. Defendant no. 10 and all the other defendants had put their signatures on the contract and received the money from the plaintiff. Even though the defendants knew that they had saying that not made any contract. Defendant no. 10 is looking for a way to recover the amount of the purchase transaction of the suit property received from the plaintiff and to take back the suit property which has already been sold, therefore the interim application has been filed. The plaintiff has already provided photocopies of his possession along with the pleadings and has provided a xerox copy of the contract before the court. If the court carefully examines the signatures of the remaining defendants in the contract and the signatures of the attorneys they have given, it is found that the signatures in the contract Signature section of the person who made the contract and the signatures of the defendants are identical.*

*Therefore, even though there are no defendants, a contract was made with the plaintiff and the property in question was sold for purchase in the presence of a witness under notarial deed. The respondent no. 10 has*

*clearly shown a malicious intention to cause the plea without allowing the witness to give his statement. At the time of purchase of the property in question by the plaintiff, it was a piece of land and was under the jurisdiction of the Grama Panchayath and since all the defendants were Away for personal reasons, he had business and asked all the witnesses who were in the Several times he had been saying that he would register it today or tomorrow. The father of defendant no. 10 also knew that the matter and he had also called the other defendants and promised to register the purchase deed. However since defendant no. 10 used that as a thought that he should enjoy the property in excuse and private and filed an application for mediation to dismiss the said suit. The plaintiff has so far has requested the court to appoint a court commissioner regarding the existence of a kabja in the suit property. The defendant no. 10 having come to know about this matter has filed an interim application and requested that the pleading be quashed as it is found that if the Court comes to know that the plaintiff is the kabja. The suit property will also be in favour of the plaintiff. When the plaintiff before filing the suit verbally met all the other defendants and asked them to register the property through witnesses, all the defendants except two agreed to register the property in question. Defendant no. 10 who came to know about*

*the matter, interposed Therefore, the interim application will be filed with a malicious intention of returning the already sold property to him. Therefore, the respondent's interim application can be dismissed with costs. If the Hon'ble Court grants the interim application and orders the cancellation of deed principles of natural justice, there is a possibility of violation. According to Order VII Rule 11 of the CPC, the pleadings are rejected mainly on the basis of the following six steps. If the pleadings do not show the reason for pleading, If the claimed value is not correct and has shown the value of the property or lands in the pleadings less than the value of the property. If the pleadings filed by the plaintiff have a stamp of low value or if the plaintiff has not purchased a stamp of the correct value. If the pleadings are found to have violated any law on the face of it or If the suit has been filed after exceeding the time limit, the pleadings are not served in duplicate. If the plaintiff files a pleading which is not in accordance with the law as stated in the law, such pleadings can be rejected under Order VII Rule 11 of the CPC. Since all these steps have been followed correctly in the case of the said suit, The court has issued summons to all the defendants. Therefore prayed to dismiss the application filed by the defendants.*

4. *Heard arguments.*

5. *The points for consideration are as follows:*

1. *Whether the defendants have made out grounds enunciated under order 7 Rule 11(a) and (d) to reject the plaint filed by the present plaintiffs?*

2. *What order ?*

6. *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**

7. **Point No.1:** *This suit is filed by the plaintiffs for the relief of declaration and injunction against the defendants by virtue of unregistered sale deed.*

8. *When the matter is set down for additional written statement, the counsel for the defendants filed present application seeking an order to reject the plaint, on the ground that, the present suit is neither maintainable under law nor on facts of the case. The framing of the suit and prayer itself are misconceived one and alien to the provisions of law. The plaintiff has created and concocted the suit document, which is an unregistered sale deed alleged to be executed by the defendants, which is not at all a document in the eye of*

*law. The plaintiff has sought relief of declaration of title over the suit schedule property on the basis of an unregistered sale deed dated:15.06.2017. Whereas, through said document no rights whatsoever have accrued to the plaintiff to claim the title and possession over the suit schedule property. The alleged suit document is an unregistered sale deed, which does not create any rights in favour of plaintiff. The alleged suit document is hit by section 17 and 49 of Indian Registration Act and as such suit is barred by law. Further without having any rights in and over the suit schedule property, the plaintiff cannot file present suit, as without any rights there will not arise any cause of action. Hence, prayed to allow the application.*

9. *On the other hand, the counsel for plaintiff filed objections to the said I.A. contended that The interim application filed by the defendant is not legally binding and is an interim application which is liable to be struck out. The pleadings filed by the plaintiff while filing the suit before this court clearly state the cause, date and subject of the suit. All of which were examined by this court and summons were issued to all the defendants regarding the said matter. Even though the defendants were aware of the same, they submitted the application before this court with false information. When the defendants received the summons from the*

*court, they had appointed lawyers and had filed their defences to the suit. Even before filing of the defence, none of the defendants had raised any cause of action for the suit and no plea had been filed by them claiming that the suit was out of time under the limitation Act. The reason for filing application is not binding as the case has not arisen for the considered claim and the claim filed by the plaintiff has been without delay. The plaintiff was never given because there was a contract between the plaintiff and the father of the defendant no. 10 and all other defendants had entered into transaction together. Defendant no. 10 and all the other defendants had put their signatures on the contract and received the money from the plaintiff. Even though the defendants knew that they had saying that not made any contract. Defendant no. 10 is looking for a way to recover the amount of the purchase transaction of the suit property received from the plaintiff and to take back the suit property which has already been sold, therefore the interim application has been filed. The plaintiff has already provided photocopies of his possession along with the pleadings and has provided a xerox copy of the contract before the court. If the court carefully examines the signatures of the remaining defendants in the contract and the signatures of the attorneys they have given, it is found that the signatures in the contract*

*Signature section of the person who made the contract and the signatures of the defendants are identical.*

*Therefore, even though there are no defendants, a contract was made with the plaintiff and the property in question was sold for purchase in the presence of a witness under notarial deed. The respondent no. 10 has clearly shown a malicious intention to cause the plea without allowing the witness to give his statement. At the time of purchase of the property in question by the plaintiff, it was a piece of land and was under the jurisdiction of the Grama Panchayath and since all the defendants were Away for personal reasons, he had business and asked all the witnesses who were in the Several times he had been saying that he would register it today or tomorrow. The father of defendant no. 10 also knew that the matter and he had also called the other defendants and promised to register the purchase deed. However since defendant no. 10 used that as a thought that he should enjoy the property in excuse and private and filed an application for mediation to dismiss the said suit. The plaintiff has so far has requested the court to appoint a court commissioner regarding the existence of a kabja in the suit property. The defendant no. 10 having came to know about this matter has filed an interim application and requested that the pleading be quashed as it is found that if the Court comes to*

*know that the plaintiff is the kabja. The suit property will also be in favour of the plaintiff. When the plaintiff before filing the suit verbally met all the other defendants and asked them to register the property through witnesses, all the defendants except two agreed to register the property in question. Defendant no. 10 who came to know about the matter, interposed. Therefore, the interim application will be filed with a malicious intention of returning the already sold property to him. Therefore, the respondent's interim application can be dismissed with costs. If the Hon'ble Court grants the interim application and orders the cancellation of deed principles of natural justice, there is a possibility of violation. According to Order VII Rule 11 of the CPC, the pleadings are rejected mainly on the basis of the following six steps. If the pleadings do not show the reason for pleading, If the claimed value is not correct and has shown the value of the property or lands in the pleadings less than the value of the property. If the pleadings filed by the plaintiff have a stamp of low value or if the plaintiff has not purchased a stamp of the correct value. If the pleadings are found to have violated any law on the face of it or If the suit has been filed after exceeding the time limit, the pleadings are not served in duplicate. If the plaintiff files a pleading which is not in accordance with the law as stated in the law, such pleadings can be rejected under Order VII Rule 11*

*of the CPC. Since all these steps have been followed correctly in the case of the said suit, The court has issued summons to all the defendants. Therefore prayed to dismiss the application filed by the defendants.*

*10. Before discussing the merits of the application I would like to refer Order 7 Rule 11 of CPC in order to come to the conclusion that, when the plaint can be rejected- the order 7 Rule 11 reads thus;*

*11. **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 under valued, 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) Whether 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.*

11. On careful perusal of the affidavit of the defendant No.6 to 10 it is noticed to the court that, the relief claimed under said IA is not comes under the purview of said provision and only on this ground the plaint cannot be rejected, more over entire contents taken by the defendant No.6 to 10 is to be adjudicated by the court on the basis of evidence and supported documents by the parties, moreover, it is well settled law that, while deciding order 7 Rule 11 application, plaint averments alone must be considered and not the defence of the defendant. In this regard I would like to refer the following decisions **reported in 2009(4) Civil LJ 623 of Hon'ble High court of Andra Pradesh**, wherein this decision the Hon'ble Andra Pradesh High court held that, on the basis of plaint averments plaint could not be set to be barred either for lack of cause of action or by virtue of any legal bar.

Further a decision reported **in 2009 (3) KCCR 1969 of our Hon'ble High court of Karnataka**, wherein this decision the Hon'ble High court of Karnataka held that, the court to consider all aspects while deciding order 7 Rule 11 application by

*examining the prayer for by the plaintiff and cannot act in a mechanic way.*

*Further a decision reported in **2021(4) KCCR 2940 of our Hon'ble High court of Karnataka,** wherein this decision the Hon'ble High court of Karnataka clearly held that, while deciding order 7 Rule 11 application, plaint averments alone must be considered and not written statement.*

*More over on the basis of their own defense and the copy of documents the plaint filed by the plaintiffs cannot be rejected, what are the contention taken by the plaintiffs can be proved or disproved after the full pledged trial and prima-facie reveals in favor of the plaintiffs to proceed the case.*

*The defendant has filed the present application under Order VII Rule 11(A) and (D) of the Civil Procedure Code seeking rejection of the plaint on the ground that the suit is founded upon an unregistered sale deed which according to the defendant is invalid, inadmissible and hit by Section 17 of the Registration Act, 1908. It is also contended that no right, title, or interest can flow from an unregistered sale deed. Hence, no cause of action survives for the plaintiff. On the other hand, the plaintiff has filed objections contending that the plaint discloses a valid cause of*

*action, that the unregistered sale deed can be relied upon for collateral purposes, that rejection of the plaint cannot be sought on the issue of admissibility of a document, and that the grounds adjudicated by the defendant pertinent to the merits of the case, which can only be adjudicated during the trial. In this regard, this Court is of the opinion that while deciding an application under Order VII Rule 11 of CPC, the Court must look only into the averments in the plaint and not at the defence raised or documents produced by the defendant.*

*The plaintiff in the plaint has clearly pleaded that the defendant have executed a sale deed in his favour. Delivered possession, received consideration and that the defendant failed to complete the registration process. These averments taken as true at this stage disclose a clear cause of action for the relief sought.*

*The defendant's contention is based solely on the ground that the sale deed is unregistered and therefore unenforceable. It is well settled law that an unregistered sale deed affecting immovable property cannot confer title, cannot be received in evidence for proving the main transaction of sale, But can be relied upon for collateral purposes, such as possession, nature of possession, or part performance, as held in various rulings including Hon'ble Apex Courts. Whether the*

*plaintiff will ultimately succeed or whether the unregistered sale deed is admissible is a matter of evidence. To be decided at the stage of trial under Section 49 and 53A of the Registration Act. The issue raised by the defendants is not a legal bar under Order VII rule XI of CPC. A plaint can be rejected only if the suit is barred by law on the face of the plaint itself. The plaint in the present case does not show any bar. Instead, it contains all necessary averments constituting cause of action. The Hon'ble Supreme Court in **Dahiben v/s Arvinbhai Kalyanji** Case as held that a plaint cannot be rejected on disputed questions of facts or issues of admissibility of documents. Hence the unregistered nature of the sale deed does not render the suit itself is not maintainable. It only affects evidentiary consideration during trial. Therefore this Court is of the opinion that the application filed under Order VII rule XI of CPC is not maintainable.*

*Therefore on the strengthen of the decisions referred by this court and the materials available on record it is noticed to the court that, the defendants have not made out sufficient grounds to reject the plaint against them, therefore the suit of the plaintiffs is fit for further proceedings, hence I answer to the **point No.1 in the Negative.***

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

**ORDER**

I.A. No.V filed by the Defendants under Order VII Rule 11(a) and (d) R/W Sec.151 of CPC is hereby rejected.

No order as to costs.

(Dictated to the Stenographer directly on computer, script corrected and then pronounced by me in the Open Court on this the **09<sup>th</sup> day of December, 2025**)

sd/-

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