

KAHS610018912023



**IN THE COURT OF III ADDL CIVIL JUDGE AND JMFC
AT CHANNARAYAPATNA, HASSAN.**

PRESENT:- MADHUSHREE R.M.

M.A. L.L.B.,

**III Addl. Civil Judge & JMFC,
Channarayapatna.**

Dated this the 28th day of February 2026

O.S./558/2023

- Plaintiff/s :**
1. Krishnappa
S/o late Dombidasappa @ Dasaiah
Aged about 65 years
 2. Devaraju S/o late Dombidasappa @ Dasaiah
Aged about 63 years
 3. Keshavamurthy A.V. S/o Veeraiah
Aged about 46 years
 4. Kantharaju A.V. S/o Veeraiah
Aged about 43 years
 5. Renuka Prasad A.V. D/o Veeraiah
Aged about 41 years
 6. Harisha S/o Channaiah
Aged about 40 years
 7. Keshavamurthy
S/o late Somashekar
Aged about 32 years
All are R/o Anekere Village

Dandiganahalli Hobli
Channarayapatna Taluk
Hassan District.

V/s

- Defendant/s :** 1. A.R.Venkatesh Murthy
S/o B.P.Ramaswamy @ Ramaiah
Aged about 70 years
2. Nanjabhovi S/o late Donnanna
Aged about 68 years
Both are R/o Anekere Village
Dandiganahalli Hobli
Channarayapatna Taluk
Hassan District.

I.A.No.II

Applicant : Nanjabhovi

(2nd defendant)

V/s

Opponents: Krishnappa & Others

(Plaintiffs)

Provision under which the application is filed	U/O. 7 Rule 11(a), (b) & (d) of CPC
Reliefs sought for	Reject the plaint
The date on which the application is filed	16.09.2023
Number of application	IA No.II
The date on which the objection is filed by opponent	05.03.2024
Date of order	28.02.2026

ORDER ON I.A.No.II FILED UNDER ORDER 7 RULE 11(A)(B) & (D) OF CPC

The present application has been filed by the applicant/defendant No.2 U/o. VII Rule 11(a), (b) and (d) of CPC seeking to rejection of plaint as plaint is barred by law.

2. In the accompanying affidavit it is stated that the plaintiff has filed this suit against the defendants seeking the relief of declaration and permanent injunction in respect of suit schedule property. Plaintiffs have intentionally suppressed the true facts and instituted the above suit for the relief of declaration and permanent injunction in respect of suit schedule property without having any right, title or interest over the same. There is no cause of action as alleged in the plaint. Father of defendant No.1 acquired the suit schedule property under registered sale deed dtd: 16.05.1949 and defendant No.1 succeeded to the estate of his father and became absolute owner of the suit schedule property and all the revenue records stands in the name of defendant No.1. The plaintiffs have filed this suit after lapse of 75 years from the date of execution registered sale deed and the same is hopelessly barred by law of limitation. It is further stated that the plaintiffs are not in possession and enjoyment of the suit schedule property and plaintiffs have undervalued the suit claim. Hence prays reject the plaint by allowing the application.

3. The counsel for plaintiffs has filed objections to IA No.2 by contending that, originally 2 acre 3 guntas of land in Sy.No.,217/1A belongs to propositus of plaintiffs' family. Since more than 75 years plaintiffs and their family members were in possession of the same. To determine the same evidence is required. The defendant has filed this application by suppressing the truth and causing delay to the proceedings of the case. Hence prayed to reject the application.

4. Perused the averments of plaint, objections and records of the parties to the suit. Heard counsel for both parties.

5. Based on the materials placed on record the following points arise for consideration:

1. *Whether the applicant/ defendant No.2 has made out sufficient grounds to allow I.A.No.II U/o 7 Rule 11(a) (b) and (d) of CPC ?*
2. *What order ?*

6. The findings of this court to the above points are as below:

Point No.1 : In the Negative

Point No.2 : As per the final order
for the following;

REASONS

7. **Point No.1:-** The plaintiffs have filed this suit against the defendants for the relief of declaration and permanent injunction in respect of suit schedule property.

8. Counsel for defendant has filed copy of sale deed dtd: 16.05.1949, copy of sale deed dtd: 28.01.1948, RTC extracts. Per contra counsel for plaintiff has filed order copy passed by Assistant Commissioner, Hassan, endorsement issued by Tahsildhar, pasalu pahani, encumbrance certificate, endorsement issued by Tahsildhar, computerized RTC.

9. The Court can reject the plaint under U/o 7 Rule 11 of CPC only under six circumstances, i.e.,

a) if the plaint does not disclose the cause of action;

b) whether 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) whether 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) whether it is not filed in duplicate;

f) Whether the plaintiff fails to comply with the provisions of Rule 9;

10. The plaint can be rejected only on the ground mentioned U/Order 7 Rule 11 of CPC.

11. While considering the application U/o. 7 Rule 11 of CPC it is settled principal of law that, the question is in as to what pleaded but what is pleaded in the plaint is necessary and plaint averments must be considered.

12. The Hon'ble Apex Court in the judgment reported in (2021) 9 SCC 99 between **Sri Hari Hanumandas Totala V/s Hemanth Vithal Kamat and others** wherein the Hon'ble Apex Court held that

Order 7 Rule 11(d) of CPC provides that the plaint shall be rejected where the suit appears from the statement in the plaint to be barred by any law. Hence, in order to decide whether the suit is barred by any law, it is the statement in the plaint which will have to be construed. The Court while deciding such an application

must have due regard only to the statements in the plaint. Whether the suit is barred by any law must be determined from the statements in the plaint and it is not open to decide the issue on the basis of any other material including the written statement in the case.

13. At this juncture it is relevant to refer ratio laid down by the **Hon'ble Supreme court of India in Saleem Bai V/s State of Maharashtra which is reported in (2003) 1 SCC 557** wherein para No.9 it is held as under:

9. On perusal of Order VII Rule 11 C.P.C. makes it clear that the relevant facts which need to be looked into for deciding an application thereunder are the averments in the plaint. The trial court can exercise the power under Order VII Rule 11 C.P.C. at any stage of the suit-before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial. For the purposes of deciding an application under clauses (a) and (d) of Rule 11 of Order VII C.P.C. the averments in the plaint are germane; the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage, therefore, a direction to file the written statement without deciding the application under Order VII Rule 11 C.P.C. cannot but be procedural irregularity touching the exercise of jurisdiction by the trial court. The order, therefore, suffers from non-exercising of the jurisdiction vested in the court as well as procedural irregularity. The High Court, however, did not advert to these aspects.

14. It is relevant to refer the ratio laid down by the **Hon'ble Apex Court of India in Mayar (H.K.) Ltd. And others V. Owners and**

Parties, Vessel M.V. Fortune Express and others which is reported in (2006) 3 SCC 100 wherein it was held in paragraph-12 reads as follows:

“12. From the aforesaid, it is apparent that the plaint cannot be rejected on the basis of the allegations made by the defendant in his written statement or in an application for rejection of the plaint. The court has to read the entire plaint as a whole to find out whether it discloses a cause of action and if it does, then the plaint cannot be rejected by the court exercising the powers under Order 7 Rule 11 of the Code. Essentially, whether the plaint discloses a cause of action, is a question of fact which has to be gathered on the basis of the averments made in the plaint in its entirety taking those averments to be correct. A cause of action is a bundle of facts which are required to be proved for obtaining relief and for the said purpose, the material facts are required to be stated but not the evidence except in certain cases where the pleadings relied on are in regard to misrepresentation, fraud, wilful default, undue influence or of the same nature. So long as the plaint discloses some cause of action which requires determination by the court, the mere fact that in the opinion of the Judge the plaintiff may not succeed cannot be a ground for rejection of the plaint.”

15. This Court has carefully perused the ratio laid down above cited decisions and perused the plaint averments. The plaintiff has filed the suit against the defendant for the relief of declaration and possession of the suit property. At this juncture, the contention raised by the defendant are of little consequences, while dealing with the application filed U/o 7 Rule 11 (a) to (f) of CPC, the Court has to see only the plaint averments and not the contention raised by the defendant.

16. Therefore, relying on the principle laid down by the Hon’ble Apex Court of India as discussed supra, this Court hold that,

defendant No.2 has failed to show that, plaint does not disclose the cause of action to file the suit. In this case the counsel for defendant No.2 has filed an application seeking rejection of plaint on the grounds of want of cause of action, suit is barred by law of limitation and suit is undervalued. It is settled principle of law that point of limitation is mixed question of law and fact. Whether the suit is barred by law of limitation or not requires full-fledged trial. In this case cause of action and point of limitation are correlated to each other. After considering all these facts and circumstances of the case, this court is of the opinion that the defendant No.2 has not made out sufficient grounds to allow the application. At this stage if this court gives any findings on the main issues and merits of the case it will prejudice the parties. **With these observations this Court answers Point No.1 in the Negative.**

17. Point No.2:- For the aforesaid reasons, this court proceeds to pass the following:

ORDER

**The I.A.No.II filed by the applicant/
defendant No.2 U/o.7 Rule 11(a) (b) and (d) of
CPC is hereby rejected.**

No order as to costs.

(Dictated to the stenographer on-line to the computer and typed by her, corrected, signed and then pronounced by me in open court on 28th day of February 2026.)

**(Madhushree R.M.)
III Addl. Civil Judge & J.M.F.C.
Channarayapatna**

