

KAHS810005422026



O.S.No.50/2026

**IN THE COURT OF C/C I ADDL THE CIVIL JUDGE &  
JMFC., SAKALESH PURA**

**-.PRESENT:-**

**Sri. Lakshmi Narasimha R.V. B.A.L., LL.B.,**

C/c I Addl. Civil Judge & JMFC., Sakaleshpura.

**Dated this the 23<sup>rd</sup> day of March, 2026**

**O.S. NO. 50/2026**

**PLAINTIFF : Sri. Ramegowda N.S.**

**V/s.**

**DEFENDANT : Sri. Puttaraju H.V.**

**I.A. No.III**

**Plaintiffs/Applicant : Sri. Puttaraju H.V.**

**V/s.**

**Defendants/Opponent : Sri. Ramegowda N.S.**



**ORDERS ON IA NO.III FILED BY DEFENDANT**  
**UNDER ORDER VII RULE 11(d) OF CPC**

The Defendant has filed this application under Order VII Rule 11(d) of CPC to reject the plaint as barred by law in view of section 41(h) of Specific Relief Act.

2. The Defendant in the affidavit annexed along with the application has stated that the plaintiff has filed the present suit for the relief of permanent injunction to restrain the defendant from constructing any building towards Northern side of the suit schedule property without leaving any set back area. As per the plaint averment the plaintiff has given representation dated 13.02.2026 before the Town Municipality, Sakaleshpura for having defendant constructed the house by encroaching the property of plaintiff without leaving any set back area. The plaintiff has filed this suit without claiming any efficacious remedy only with intention to stop the construction work. Hence, the present suit is hit by section 41(h) of Specific Relief Act. Accordingly, prayed to reject the plaint by allowing the application.



3. The plaintiff has filed objections to the application and contended that, the plaintiff has taken a contention that on 13.02.2026 he has given representation before Town Municipality, Sakaleshpura by stating that the defendant is constructing the house without leaving any set back area by encroaching the property of the plaintiff. As per the report of Chief Officer, the plaintiff has encroached the property of plaintiff and constructing the house without leaving any set back area. As such, the plaintiff has filed the present suit. Now, the defendant has filed this application without any reasons. The defendant has encroached Government road to extent of 1 mtr and constructing the house. Now, he has filed this application only with intention to suppress the material fact. Accordingly, prayed to dismiss the application.

4. Heard arguments on behalf of both the parties. The learned counsel for defendant has relied upon the following decision



a) Civil Appeal No. 6075/2016 dated 15.01.2026  
(Sanjay Paliwal V/s Bharath Heavy Electricals  
Ltd of Hon'ble Supreme Court of India.

5. In light of the above contentions, the infra points that would arise for the determination.

1. Whether the suit is barred by law of limitation?
2. What order?

6. My findings on 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**:- The plaintiff has filed the present suit for the relief of permanent injunction in respect of the suit schedule property. The plaintiff has contended that the defendant is constructing the house towards northern side of suit schedule property by encroaching and without leaving any set back area. On the other hand, the defendant



has contended that the plaintiff has admitted that the defendant has encroached the portion of property of plaintiff. Hence, without seeking the efficacious remedy, suit is not maintainable as per section 41(h) of Specific Relief Act.

8. At this stage, it is beneficial to draw attention on the provisions of Order VII Rule 11(d) of CPC, it reads as follows:

Order VII Rule 11: Rejection of Plaint: The plaint shall be rejected in the following cases:

(d) Where the suit appears from the statement in the plaint to be barred by any law;

9. The Hon'ble Supreme Court in **Kamala and Others vs. K.T. Eshwara Sa and Others** has held that ***“only plaint averments shall be looked into for disposing of the plaint rejection application”***. The Hon'ble High Court of Karnataka in **ILR 2013 KAR 1171 (Gokuldas Images Pvt. Ltd. vs. M/S Axis Bank Limited, Ahmadabad**, held that ***“to reject the plaint under Order***



***VII Rule 11(a) (d) CPC, what is required to be considered only the statement in the plaint and not any other material which may be available to the defendant as defence”.***

10. The Defendant has maintained this application on the ground that in view of section 41(h) of Specific Relief Act, the suit is barred by law. It is to note here that under section 41 of Specific Relief Act, it is with respect to when injunction cannot be granted. But not the suit is barred by law. The plaintiff has contended that the defendant has encroached the property of plaintiff and constructing the house without leaving any set back area. Hence, the said aspects has to be determined after full fledged trial. Further, order 7 Rule 11 of CPC does not contemplate the grounds for rejection as enumerated by the defendant.

11. At the time of the arguments, the learned counsel for defendant has relied upon a decision of Hon'ble Supreme Court of India in Civil Appeal No. 6075/2016 dated



15.01.2026 (Sanjay Paliwal V/s Bharath Heavy Electricals Ltd. On perusal of the said decision the plaintiff in the said suit had sought for removal of the wall without claiming possession. The defendant in said suit had disputed the title of the plaintiff over the property. Further, the learned counsel for defendant has submitted that when the property is encroached, without seeking for relief of possession, injunction simpliciter he is not maintainable. Accordingly, prayed to reject the plaint. On careful reading of the plaint, it appears on prima-facie that the plaintiff has contended that the defendant is constructing the house without leaving any set back area by encroaching the property of the plaintiff. Hence, the question as to whether the defendant has encroached the said back area and constructing the house has to be determined. Further, in the said suit the defendant has filed written statement and after the trial it was found cloud over the possession. Hence, the said aspect has to be to determined after full fledged trial. Hence, at this



stage , the said decision is not applicable for the present stage. Hence, this court is of the opinion that considering the above reasons, Point No.1 is answered in the ***Negative***.

**12. Point No.2 :** In view of the above findings and point No.1, this court proceeds to pass the following:

**ORDER**

Application No.III filed by the defendants under order 7 Rule 11(d) of CPC is hereby dismissed.

No costs.

[Dictated to the Stenographer directly on computer and then corrected by me and thereafter pronounced in the open court on this the 23<sup>rd</sup> day of March, 2026]

[Lakshmi Narasimha R.V,  
C/c I Addl. Civil Judge and JMFC.,  
Sakaleshpura.