

KAHS810011552015



IN THE COURT OF THE PRL CIVIL JUDGE & JMFC.,

SAKALESH PURA

-.PRESENT:-

Sri. Lakshmi Narasimha R.V. B.A.L., LL.B.,
Prl. Civil Judge & JMFC., Sakaleshpura.

Dated this the 6th day of March, 2026

O.S. No.122/2015

Plaintiffs : Sri. B.R. Sathisha and another
V/s

Defendants : Sri. Ravikumar (Since Dead by
LRs) and others

IA. NO. XV

Applicants : Sri. Dharmappa (D2)
V/s

Opponents : Sri. B.R. Sathisha and another

ORDERS ON IA NO.XV FILED BY DEFENDANT No.2
UNDER ORDER VII RULE 11 OF CPC

Defendant No.2 has filed this application under Order VII Rule 11 of CPC to reject the plaint as no cause of action and not maintainable when the matter is posted for further cross examination of DW-1.



2. Defendant No.2 in the affidavit annexed along with the application has stated that the plaintiffs have filed the present suit for the relief of declaration and other reliefs in respect of the suit schedule property. The plaintiffs have not shown any cause of action to file the suit. The plaintiffs got amended the survey number and boundaries in the year 2025. Hence, it would change the cause of action. As such the present suit is not maintainable. Hence, there is no any cause of action to file the suit. Accordingly, prayed to reject the plaint by allowing the application.

3. The plaintiffs have filed objections to the application and contended that, defendant No.2 and 3 in the written statement have admitted that the rights of defendant No.1. Even in the cross examination of PW-1, they have suggested the rights of defendant No.1. The plaintiffs are the legal heirs of defendant No.1. The question of limitation is a mixed question of law and facts, which requires trial. Hence, plaint cannot be rejected without trial. The plaintiffs have stated the valid reasons for amendment of the plaint. They



have amended the plaint only in respect of phodi Number and not the survey number and boundaries. As at the same time survey number 177 got phoded has Sy No. 177/1 and 177/2. Whereas the measurement was remained the same. As such, the plaintiff got amended the plaint with respect to correct phodi number. As such, the plaintiffs have shown the cause of action to file the suit. The said suit neither change cause of action nor nature of the suit. Accordingly, prayed to dismiss the application.

4. Heard arguments on behalf of both the parties. The learned counsel for the plaintiffs has relied upon the decision of Hon'ble Supreme Court of India in Civil Appeal No.5622/2025 dated 2904.2025.

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

1. Whether the plaintiffs have not disclosed any cause of action to file the suit and the suit is not maintainable ?

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 plaintiffs have filed the present suit for the relief of declaration to declare that the registered sale deed dated 23.03.2000 executed by defendant No.2 in favour of defendant No.3 and Registered Sale Deed executed by defendant No.3 in favour of defendant No.4 and the registered gift deed dated 28.01.2013 executed by defendant No.4 in favour of defendant No.5 are not binding on the share of the plaintiffs and also for relief of partition and separate possession in respect of the suit schedule property. The plaintiffs have contended that the suit schedule property was granted in the name of his father defendant No.1 vide order dated 28.06.1985. Thus, the plaintiffs and defendant No.1 being the joint family members are having equal share in the suit schedule property. Thereafter when



the plaintiffs requested defendant No.1 to effect the partition, he did not oblige for the same. After obtaining the documents to come to know that there has been various transaction by way of Sale Deeds and Gift Deeds. They have denied the execution of GPA by defendant No.1. Thus they have challenged the said deeds. On the other hand, Defendant No.2 and 3 have contended that defendant No.1 has executed the GPA dated 18.04.1994 in favour of defendant No.2 and on basis of GPA, defendant No.2 has executed a registered sale deed in favour of defendant No.3 thereafter sale deed in favour of defendant No.4 and later gift deed in favour of defendant No.5. After lapse of 17 years, the plaintiffs have come up before the court by challenging the sale deeds. Hence, they have no cause of action to file the present suit.

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



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

- (a) Where it does not disclose a cause of action.
- (d) Where the suit appears from the statement in the plaint to be barred by any law;

9. On perusal of the plaint and the cause of action, it makes clear that these provisions are mandatory to be looked into if, the suit does not disclose any cause of action. In **AIR 1996 SC 2140, State of Orissa vs Klockner and company and others**, the Hon'ble Apex court held that, ***“it is the case of the applicant that the plaintiff has no cause of action to file the suit. It is not specifically pleaded by the applicant that plaint does not disclose the cause of action. The learned trial judge has also not recorded any specified finding to this effect. From the discussions in the order it appears that the learned trial judge has not maintained the distinction between the plea that there was no cause of action for the suit and does not disclose the cause of action. No specific reason for the***



ground is stated in the order in support of finding that the plaint is to be rejected under Order 7 rule 11(a). the cause of action to file the suit for the reliefs sought question is to be determined on the basis of materials(other than plaint) which may be produced by the parties at appropriate stage in the suit.”

10. 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, Ahamedabad**, 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”*.



11. Defendant No.2 has maintained this application on the ground that after lapse of 17 years the plaintiffs have filed this suit by challenging the sale deed and gift deed. The plaintiffs are not in possession of the suit schedule property. Hence the suit is barred by law of limitation. It is to note here that the plaintiffs have contended that the sale deeds and gift deeds have been concocted by playing fraud and upon the knowledge, they have before the court with the present suit. The term cause of action refers to bundle of facts, which makes the plaintiffs to file the suit. The plaintiffs in the plaint has explained as to why they constrained to file the suit. Hence, with respect to the question of cause of action, the plaint alone has to be looked into. On perusal of the supra cited decision, The Hon'ble Supreme Court, as held that ***“once the date of knowledge is specifically pleaded and forms the basis of cause of action, the issue of limitation cannot be decided summary. It becomes a mixed question of law and fact, which cannot be adjudicated at the threshold stage under***



order VII Rule 11 CPC. Therefore rejection of plaint on the ground of limitation without permitting the parties to lead evidence is legally unsustainable”.

12. Further on perusal of the order of this court dated 30.10.2025 on application under VI Rule 17 of CPC, it is observed that On perusal of the sale deed dated 21.02.2011, it is only mentioned as Sy No.177 measuring 3 acres 21 guntas. In the Gift deed dated 28.01.2013 it is mentioned both Sy No.177/1 and Sy No.177/2. Further it is mentioned in the gift deed that Sy No.177/2 was belonging to Ravindra Kumar and executed sale deed in favour defendant No.3 through GPA. On perusal of the plaint averments, it appears on prima-facie that the plaintiffs have denied the said GPA and sale deed dated 23.09.2000. Further held that it would neither changes cause of action nor nature of suit. Hence, it is premature to decide the suit so as to whether the plaintiffs have no cause of action to file the suit.



13. Further, whether the plaintiffs have any right over the suit schedule properties or not, to be looked into only after trial. As such, the same has to be determined after full fledged trial. Hence, suit is not barred by law. At this stage, merits of the case cannot be decided only on application. Considering the above reasons, Point No.1 is answered in the *Negative*.

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

ORDER

Application No.XV filed by the
defendant No.2 under Order VII Rule 11
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 6th day of March, 2026]

[Lakshmi Narasimha R.V.]
Prl. Civil Judge and JMFC.,
Sakaleshpura.