



IN THE COURT OF SENIOR CIVIL JUDGE & JMFC.,

AT: ALAND

Present: Shri. **Abdul Rahaman Pathan,**
B.A. LL.M.,
II Additional Senior Civil Judge & JMFC.,
Kalaburagi

& C/C Senior Civil Judge & JMFC.,

ALAND

O.S. No. 170/2023

Dated this 16th day of August 2025

PLAINTIFF:

Smt. Gourabai W/o Bhimashankar
Aloor, Age: 30 Years, Occ:
Agriculture, R/o Agarkhed, Tq.
Indi, Dist: Vijayapura-585611

(By Shri. B.A.D., Adv.,)

//Versus//

DEFENDANTS:

1. Mr. Prakash S/o Siddharudh
Zunja, Age: 40 years, Occ:
Agriculture, R/o 10/24, Madan
Hipparga, Tq: Aland, Dist:
Kalaburagi.
2. Mr. Basavaraj S/o Gurappa Udda,
Age: 53 Years, Occ: Agriculture,
R/o Madan Hipparga, Tq. Aland,
Dist: Kalaburagi.

(D1 by Shri. S.B. P. Adv.,)

(D2 by Shri. S.Y.U. Adv.,)

PARTIES TO I.A. No. VII

**Applicant/
Defendant No. 2:** Mr. Basavaraj S/o Gurappa Udda

//Versus//

**Opponent/
Plaintiff:** Smt. Gourabai W/o
Bhimashankar Aloor

Provision under which instant application is filed	U/Order VII Rule 11(d) of the Code of Civil Procedure
Relief sought for	Rejection of plaint
Date of application	20-04-2022
Number	I.A. No. VII
Date on which the objections are filed	03-07-2024
Date on which Order is pronounced	16-08-2025

**ORDER ON I.A. NO. VII FILED BY DEFENDANT NO. 2
U/ORDER VII RULE 11 (d) OF CODE OF CIVIL
PROCEDURE.**

Defendant No. 2 filed instant application U/Order VII rule 11 (d) R/w Section 151 of the Code of Civil Procedure to reject the plaint.

2. The averments made in the affidavit annexed to the application in brief are as under:

It is averred in the affidavit annexed to the application that, plaintiff filed instant suit for a relief of Specific Performance of Contract. It is pleaded in the Paragraph No. 5 of

the plaint that, defendant No. 1 sold suit property in favor of defendant No. 2 vide., registered Sale deed dated, 13-04-2023. Defendant No. 1 executed agreement to sell dated, 19-04-2024 in favor of plaintiff with respect to suit property i.e, subsequent to execution of registered Sale deed dated, 13-04-2023 in favor of defendant No. 2. The Hon'ble Supreme Court in a decision reported in (2024) 2 S.C.C. 416, (KANWAR RAJ SINGH (D) THROUGH LEGAL REPRESENTATIVES VS., GEJO (D) THROUGH LEGAL REPRESENTATIVES AND OTHERS) held that, once vendor executes sale deed relating to any property, he loses right thereon. Defendant No. 1 executed Agreement to Sell with respect to suit property in favor of plaintiff i.e, subsequent to transfer of the suit property in favor of defendant No. 2 as such, instant plaint is liable to be rejected. If application as prayed for is allowed, no harm will be caused to other side. Hence, prayed to allow this application.

3. Per contra, learned counsel for plaintiff filed objection to instant application contending that, instant application is not maintainable either in law or on facts as such, liable to be rejected at the threshold. Defendant No. 2 filed instant application under the misconception that, the sale deed claimed to have been executed in his favor comes into force w.e.f. 13-04-2021. Whereas, said instrument comes into force with effect from the date of its registration i.e, w.e.f. 24-04-2023 as such, title to suit property has not been transferred in favor of defendant No. 2 from the date of sale deed itself. It appears from said sale deed that, said instrument has been executed on

13-04-2021 but not on 13-04-2023. The said anomaly can only be adjudicated after full dressed trial. Hence, prayed to reject this application.

4. On the basis of application and objections filed, following points arise for my consideration:

1. Whether defendant No. 2 proves that, from the statement in the plaint, it appears that, instant suit is barred by law as such, plaint is liable to be rejected?.

2. What Order?.

5. Heard learned counsel for plaintiff. Despite sufficient time, learned counsel for defendant No. 2 did not argue but it appears from records that, he filed written argument. Perused material on record along with written argument filed by learned counsel for defendant No. 2. My answer to above points is as under:

Point No. 1: In the Negative

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

:REASONS:

6. **Point No. 1** : At the outset, plaintiff filed instant suit for a relief of Specific Performance of Contract to enforce registered Agreement to Sell dated, 19-04-2023. It is specific claim of plaintiff that, defendant No. 1 agreed to sell suit property in her favor for total sale consideration of Rs. 7,50,000/- and executed registered Agreement to Sell dated, 19-04-2023 receiving entire sale consideration. It was agreed to complete the sale transaction within period of one year after furnishing relevant

revenue records but during interregnum period defendant No. 1 behind the back of plaintiff sold suit property in favor of defendant No. 2 vide registered Sale deed dated, 13-04-2021, which is registered on 24-04-2023. Thus, instant suit came to be filed.

7. In view of above, this Court carefully perused material placed on record. It is pertinent to state that, while considering an application filed U/Order VII Rule 11 of Code of Civil Procedure only plaint averments to be considered but not the defense taken in the written statement. The said preposition of law is supported by decision of Hon'ble Supreme Court reported in **(2016) 14 S.C.C. 679 (CENTRAL PROVIDENT FUND COMMISSIONER, NEW DELHI AND OTHERS V/S LALA J.R. EDUCATION SOCIETY AND OTHERS)**. Wherein at Paragraph No. 3, it is held as under:

3. On an application filed under Order 7 Rule 11 CPC, the Civil Court can only see the pleadings in the plaint and not anything else including written statement.

The said preposition of law has been reiterated by Hon'ble High Court of Karnataka in a decision reported in **ILR 2017 KAR 2496 (SRI. MADEPPA @ SHIVALINGAPPA @ MADIWALAPPA AND OTHERS V.S SRI. MADIWALAPPA AND OTHERS)**. Wherein it is held as under:

CODE OF CIVIL PROCEDURE, 1908 - ORDER 7 RULE 11(a) AND (d) - Rejection of plaint - Dismissal of application - Revision against - Rejection of plaint only on the basis of plaint averments, not on the defense set up in the written statement -

HELD -

Plaint can be rejected on any one of the grounds enumerated in Clauses (a) to (e) of Order 7 Rule 11 CPC, but no plaint can be rejected on the basis of the defence taken by the defendant in the written statement. That should be established only on the pleadings of the plaint. Mere fact that the plaintiffs may not succeed will not be a ground for rejecting the plaint. The only averments to be looked into is plaint averments and nothing else.

It appears from the sacred ratio laid down in above extracted decisions that, while considering an application for rejection of plaint, only plaint averments to be considered but not any other material. It is also trite law that, while considering an application filed U/Order VII rule 11 of the Code of Civil Procedure along with plaint averments, the Court can consider documents produced with plaint. The said preposition of law is supported by decision of Hon'ble High Court of Karnataka reported in **2020 (3) KCCR 1756, (SMT. KANTHAMMA AND ANOTHER V.S V. VENKATESH)**. Wherein at Paragraph No. 17 it is held that, *it is trite law that, while considering an application for rejection of plaint, only the plaint averments can be looked into. It is equally well settled that, for the purpose of disposal of an application Under Order 7 Rule 11, documents annexed to the plaint can be looked into.* A careful reading of sacred ratio laid down in above extracted decisions depicts that, while considering an application filed U/Order VII rule 11 of the Code of Civil Procedure, plaint averments and documents produced along with plaint can be considered.

8. It is pertinent to note that, defendant No. 2 sought to reject the plaint based on sacred ratio laid down in decision of Hon'ble Supreme Court reported in **(2024) 2 S.C.C. 416** but not on the basis of any of the grounds mentioned U/Order VII rule 11 of the Code of the Civil Procedure. It is worthwhile to note that, as per Article 141 of the Constitution of India, the law declared by Hon'ble Supreme Court is binding on all Courts of this Country. Thus, it is to be assumed that, the expression "barred by law" occurring in Clause (d) of rule 11 of Order VII not only includes any Act enacted by the legislature creating a "bar" but expression "law" includes therein "judicial decision of the Supreme Court" also, which are binding on all Courts of the Country. The said preposition of law is supported by decision of Hon'ble Supreme Court reported in **(2018) 13 S.C.C. 480, (BHARGAVI CONSTRUCTIONS AND ANOTHER VS., KOTHAKAPU MUTHYAM REDDY AND OTHERS)**. Wherein it is held that, the expression "law" occurring under Order VII rule 11(d) of the Code of Civil Procedure, includes judicial decision of Hon'ble Supreme Court". Thus, it appears that, a plaint can also be rejected based on the decision of Hon'ble Supreme Court.

9. In view of above, this Court carefully perused registered Agreement to Sell dated, 19-04-2023. Wherein it appears that, defendant No. 1 agreed to sell suit property in favor of plaintiff for total sale consideration of Rs. 7,50,000/- and executed said agreement receiving entire sale consideration. This Court also perused Copy of Registered Sale Deed dated, 13-04-2021 (Registered on 24-04-2023). Wherein it appears that, defendant

No. 1 sold suit property in favor of defendant No. 2. It is worthwhile to note that, though said sale deed has been executed on 13-04-2021 but has been registered on 24-04-2023 i.e, subsequent to execution of registered Agreement to Sell dated, 19-04-2023. This Court carefully perused Section 23 of the Registration Act, which envisages that, no document other than a will shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution. This Court also perused Section 25, which provides that, if due to urgent necessity or unavoidable accident, any document executed or copy of decree or order made is not presented for registration till after the expiration of time hereinbefore prescribed in that behalf, the registrar in cases where the delay in presentation does not exceed four months, may direct that, on payment of a fine not exceeding ten times amount of the proper registration fee, such document shall be accepted for registration. A cumulative reading of both provisions makes it amply clear that, instruments excluding Will must be presented for registration within four months from the date of execution. If there is delay, the person seeking delayed registration shall file application before registrar and only upon payment of prescribed fine and within specific time limit such registration is permissible. In view of the same, this Court carefully perused Certified Copy of registered Sale deed claimed to have been executed in favor of defendant No. 2 produced along with plaint. The said instrument though has been executed on 13-04-2021 but has been registered on 24-04-2024. The said instrument does not show payment of fine for delayed

presentation for registration. Apart from this, whether said sale deed has been executed in compliance with Section 23 and 25 of the Registration Act or not is to be decided by taking evidence in this case. Furthermore, admittedly, instant suit is filed for a relief of Specific Performance of Contract. Wherein execution and enforceability of agreement to sell dated, 19-04-2023 only needs to be adjudicated. If plaintiff proves valid agreement and its enforceability then will be entitle for the relief of specific performance of contract but not otherwise. Apart from this, whether defendant No. 2 is bonafide purchaser of suit property or not is to be decided by taking evidence in this case and defendant No. 1 had title to execute registered Agreement to Sell dated, 19-04-2023 or not is also to be decided by taking evidence in this case. Thus, there are several disputed facts, which can only be adjudicated by taking evidence in this suit. It is well settled law that, while considering an application U/Order VII rule 11 of the Code of Civil Procedure, the Court cannot go into or consider the disputed questions of fact. The said principle of law is supported by decision of Hon'ble Supreme Court reported in **(2006) 8 S.C.C. 367, (M. GURUDAS & OTHERS VS., RASARANJAN & OTHERS)**. Wherein at Paragraph No. 30 it is held that, while considering an application filed U/Order VII rule 11 of the Code of Civil Procedure, the disputed questions of fact cannot be considered or gone into. In this case also, while discussing above, this Court has concluded that, whether plaintiff is entitle for the relief of specific performance of contract or not is to be decided by taking

evidence as such, sacred ratio laid down in above referred decision is squarely applicable to case at hand.

10. This Court carefully perused decision reported in **(2024) 2 S.C.C. 416**. Wherein it is held that, when any sale deed is executed and entire agreed sale consideration is paid on or before execution of sale deed, after it is registered, it will operate from the date of its execution. In this case, defendant No. 1, who is vendor of both plaintiff and defendant No. 2 filed Written Statement contending that, defendant No. 2 got executed Registered Sale Deed dated, 13-04-2021 under duress by giving life threat and without payment of any consideration. Thus, the registered Sale deed dated, 13-04-2021 has been validly executed and consideration mentioned therein has been paid to defendant No. 1 or not is to be decided by taking evidence in this suit. Apart from this, even if it is presumed for while that, defendant No. 1 sold suit property in favor of defendant No. 2 then also plaintiff at least will be entitle for refund of earnest money, if she proves valid execution of said agreement to sell and payment of consideration mentioned therein. In such eventuality, claim of defendant No. 2 to reject the plaint based on ratio laid down in decision mentioned above does not appear to be probable.

11. This Court carefully perused decisions cited by learned counsel for plaintiff reported in **ILR 2005 KAR 1419 & ILR 2008 KAR 3993**. Wherein it is held that, while considering an application U/Order VII rule 11 of the Code of Civil Procedure only plaint averments to be considered but not defense of the

defendant. In this case also, while discussing above, this Court relying on a decision of Hon'ble Supreme Court and subsequent decision of Hon'ble High Court of Karnataka concluded in similar way as such, sacred ratio laid down in said decisions is aptly applicable to case at hand. In view of above, this Court is of view that, defendant No. 2 has not made out any grounds to reject this plaint. Considering facts of this case, it would not be just to impose costs on any of the parties to the application.

Accordingly, I answer Point No. 1 in the Negative

12. **Point No. 2:** In view of discussion and conclusion arrived at Point No. 1, this Court proceeds to pass following:

ORDER

I.A. No. VII filed by defendant No. 2 U/Order VII Rule 11 (d) of the Code of Civil Procedure is hereby REJECTED.

Parties shall bear their own costs.

(Dictated to the Stenographer, directly on laptop, script corrected and then pronounced by me in Open Court on this the 16th day of August 2025).

(Abdul Rahaman Pathan)
II Additional Senior Civil Judge
& JMFC., Kalaburagi &
C/C Senior Civil Judge & JMFC,
Aland