

ORDER ON IA NO.II FILED UNDER ORDER 7 RULE 11 OF
CPC.

i.	Provision under which the application is filed	Under order 7 Rule 11 of CPC
ii.	Relief sought for	For rejection of the plaint
iii.	The date on which the application is filed	05-01-2024
iv.	Number of the application	I.A.No.II
v	The date on which the objections are filed by different opponents	07-02-2024
vi	The date on which the orders were passed on the said application	15-03-2024

The defendants have filed the present application for rejection of the plaint.

2. The applicants/defendants have contended that, the plaint does not disclose the cause of action. The plaintiffs have filed a false suit. The plaintiffs have not produced any

documents to show that, the suit properties are ancestral properties. The plaintiffs have not mentioned about how their father acquired the suit properties. The plaintiffs have filed the suit on the imaginary grounds. The plaintiffs have not mentioned the date of family arrangements made between the members of the family. The plaintiffs have not issued any legal notice before filing the suit. The plaintiffs' father shown to be died on 23-07-2018 and within 3 years from the said date the suit is not filed by the plaintiffs. The suit of the plaintiffs is barred by law of limitation. The suit survey number 83 and 43 lands are standing in the name of Karnataka Niravari Nigama. The plaintiffs have not made the Government as party to the present suit. Mere averments without any documents does not constitutes the cause of action for the plaintiffs. On the said material grounds the defendants have prayed for allowing the present application.

3. The plaintiffs have filed their objections to the present application by denying the grounds of the application. They have contended that, the suit properties are the ancestral

and joint family properties of the plaintiffs and defendants. The plaintiffs are entitled for the share in the suit properties after death of the father of the plaintiffs. The plaintiffs approached the defendants for effecting partition. The defendants have not made out any grounds for the rejection of the plaint. The plaintiffs have filed the suit for the relief of partition. On the said material grounds the plaintiffs have prayed for rejection of the present application.

4. The defendants have filed re-joinder to the objections of the plaintiffs by denying the grounds of the objections.

5. Heard the arguments on the present application and considered the written arguments filed for the plaintiffs. I have considered the decisions relied upon by the parties on the present application.

6. The Advocate for the defendant No.1 and 2 has relied upon the following decisions

- (1) Begum Sabiha Sultan V/s Navab Mohd Mansoor
Ali Khan 2007 (4) SCJ 586.
- (2) 1998 part-2 SCC 70.
- (3) Civil Appeal No.878/2009 dated 04-01-2023
Supreme Court in the case of Smriti Debbrama
V/s Prabha Ranjan Debbrama.
- (4) RSA No.35/2012 dated 15-05-2022 Gauhati High
Court in the case of M/s Gauhati Roller Flour
Mills Ltd. V/s Smti Premoda Medhi.

7. Perused the records the plaintiffs have filed the present suit for the relief of partition and separation possession against the defendants. The plaintiffs have contended that, the defendant No.1 is the brother of the plaintiffs. The defendant No.2 is the wife of the defendant No.1. The suit properties are the ancestral and joint family properties of the plaintiffs and defendants. The plaintiffs are the sisters of the

defendant No.1. The plaintiffs have contended that, the defendant No.1 has refused to give share to the plaintiffs. The cause of the action for the suit was accrued to the plaintiffs on 02-10-2023 when the defendant No.1 refused to give share to the plaintiffs.

8. On considering the plaint averments and considering the relationship of the parties it cannot be said that, there are grounds for rejection of the plaint. Considering the grounds of the application I do not find any grounds made out by the defendants for rejection of the plaint. Considering the plaint averments I do not find any grounds for rejection of the plaint. The merits of the case cannot be considered at this stage of the case. The decisions relied upon by the defendants are not helpful for the defendants for the present application.

Hence, I.A.No.II filed by the defendant No.1 and 2 is hereby rejected.

For plaintiff evidence.

By:

Senior Civil Judge and JMFC,
Afzalpur.

