



**IN THE COURT OF ADDL.CIVIL JUDGE AND
J.M.F.C., VIRAJPET**

-: PRESENT :-

Sri.Pradip Potadar., B.Com, L.L.B.,
Addl.Civil Judge & J.M.F.C.,
Virajpet.

Original Suit No.131/2022

Dated the 20th day of November 2024.

Plaintiffs:

Smt.B.N.Varija,
W/o: B.T.Nanaiah,
Age: 60 years,
R/o: Karmad Village,
Ammathi Hobli, Virajpet,
S.Kodagu.

(By Sri.K.V.Sunil, Advocate)

-Vs-

Defendants:

1. Sri.U.C.Bopanna,
S/o: Late Chengappa,
Age: 75 years,
R/o: Karmad Village & Post,
Ammathi, S.Kodagu.
2. The Tahasildar,
Virajpet Taluk,
Virajpet.
3. The Revenue Inspector,
Ammathi Revenue Hobli,
Ammathi, S.Kodagu.
4. The Village Accountant,
Karmad Village Circle,
Ammathi, S.Kodagu.



5. Sri.N.Nagesh, Licensed Surveyor,
Attached to the office of the
Tahasildar and ADLR Office,
Virajpet.
6. The Chief Secretary,
Government of Karnataka,
Vidhana Soudha, Bangalore.
7. The ADLR,
Survey Department,
Virajpet Taluk.

**(By D.1 Sri.N.B.Devaiah, Advocate,
D.2, 3, 4, 6 & By Learned A.G.P
D.5 By Smt.C.Vijaylakshmi,
Advocate)**

PARTIES ON I.A.

**Applicants/
Defendants:**

Sri.Kottangada C.Devaki & Ors.

**Opponent/
Plaintiff :**

Sri.Kottangada P.Karumbaiah,

Provision under which the application is filed	U/Order 7 Rule 11 R/w Sec.151 of CPC,
Relief sought for	For rejection of plaint.
Date on which application are filed	15.10.2024
Number of the application	IA
Date on which objection is	30.10.2024



filed by the opponent,

Date on which the order is 20.11.2024
passed

ORDER ON I.A. FILED BY THE DEFENDANT NO.1
UNDER ORDER VII RULE 11 R/W SECTION 151 CODE
OF CIVIL PROCEDURE CODE.

The present application is filed by the defendant no.1 under Order 7 Rule 11 R/w Sec.151 of C.P.C for rejection of plaint.

2. In the affidavit annexed to the application, the applicant has stated that, the suit schedule property is acquired by him which he has purchased from Sri.Kuttanda Muthappa under a registered Deed of Sale dated 11.12.1998, document registered as Doc No.742/98-99 at the office of the Sub Registrar, Virajpet. Eversince the plaintiff is absolute owner and he is in exclusive possession and enjoyment of the suit schedule property. Except, defendant no.1 no one else profess any right, title, interest,



claim or deemed whatsoever in or over the suit schedule property. The Revenue record stands in his name of the plaintiff. Thus, the defendant no.1 has perfected the right over the suit schedule property. Such being the circumstances, the defendant no.1 had applied for haddubastu survey of suit schedule property in order to ascertain its location and to fix boundaries. Though the plaintiff has no semblance of right, title, interest over the schedule property is obstructing survey of his property. The plaintiff has filed the above suit without following proper procedure, which is not sustainable under law. **On all these grounds the defendant no.1 prays to reject the plaint by allowing the application.**

3. On the other hand the plaintiff has filed objection to the application. It is contended that the application filed by defendant no.1 is not at all maintainable both under law and facts. The defendant no.1 simply has filed the said I.A on the plea that the “the plaintiff has no semblance of right,



title, interest over the schedule property is obstructing survey of my property “AND” She has filed the above suit against me and othe Government Officials without following the proper procedure, which is not sustainable under law” which pleading does not attract any of the clauses as stated nor attracting such specific clauses/provisions of Order 7 Rule 11 of CPC. The application filed by the defendant no.1 is bald and meritless.

4. It is further contended that the defendant no.1 has filed his detailed written statement and sought counter claim for the relief of declaration stating that “the first defendant no.1 is the absolute owner of the counter claim schedule property” and when such is the fact the filing of the present I.A under Order VII Rule 11 of C.P.C is not at all maintainable. If at all the defendant no.1 had not claimed the relief of counter claim then he had the liberty to file the I.A. When the defendant no.1 himself has filed the written statement and in the written statement claiming such reliefs



the present I.A does not survive for consideration and as such the same is liable to be rejected in limine. **Hence, plaintiff prays to dismiss the application filed by the defendants.**

6. Heard arguments from both the sides and perused materials on record, the following points that arise for my consideration:

1. Whether the defendant no.1 has made out grounds to allow the application filed U/Order 7 Rule 11 R/w Sec.151 of C.P.C.?

2. What Order?

7. My answer to the above points are as follows:

Point No.1: In the Negative

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

REASONS

8. **Point No.1:-** I have perused I.A, objection, plaint, written statement and entire materials available on record. The plaintiff has filed this suit for the relief of permanent injunction against the defendants. On the other hand the defendant no.1 has setup counter claim for the relief of



declaration of title over the counter claim property. In this case evidence is not yet commenced. Admittedly, the plaintiff has filed this suit against the defendants no.2 to 5 for not to carry Hadubastu Survey of the suit schedule property. It is true that defendant no.1 has filed application before the Revenue Authorities for survey the land. The facts and circumstances of the case revealed that in this case required full fledged trial to decide the matter controversy. It is pertinent to note that in the application filed by the defendant no.1 has not stated under what ground the plaint would be rejected. On perusal of the contents of affidavit annexed to the application, it revealed that in this case involved mixed question of law and facts. At this stage the court cannot hold a mini trial to decide the dispute between the parties. I do not find that the defendant no.1 has made out any proper grounds to allow the I.A. With these observations this court opines that, the present application is deserves to dismissed. **Accordingly, this court hold point No.1 in the NEGATIVE.**



9. **Point No. 2:** In view of the above reasons on Point No.1,
I proceed to pass the following :

O R D E R

**The I.A filed by the defendant
no.1 U/order VII Rule 11 R/w
Sec.151 of Civil Procedure Code
is hereby dismissed.**

No order as to cost.

(Dictated to the Stenographer directly on my computer,
after clerical additions by him, script revised, corrected and
pronounced by me in the open court on 20th day of
November 2024)

sd/-

(Sri.Pradip Potadar.,)
Civil Judge & JMFC.,
Virajpet.