

**IN THE COURT OF THE II ADDL. CIVIL JUDGE & JMFC AT
K.G.F.**

Dated this the 25th day of February 2020

:Present:

**KIRAN S.P., B.B.M., LL.B.,
II Addl. Civil Judge, K.G.F.**

OS No.290/2017

Plaintiff : - Smt. Ramakka

V/s.

Defendants :- Sri. J. Amaranath and others

CAUSE TITLE ON IA NO. VII

Applicants : -

- 1. Sri. J.S Amaranath**
S/O. Late J.R.Shankarappa
Aged About 58 Years,
R/at. No. 360, Prtichard road,
Robertsonpet, KGF.
- 2. Smt. J.S Vedavathi,**
D/O. Late J.R.Shankarappa
Aged About 55 Years,
R/at. D.no. 13/203
Somaiah Street,
Kuppam Town,
Chittoor District.
- 3. Smt. J.S Prabhavathi,**
D/O. Late J.R.Shankarappa
W/O. Sri. V.Sampangiramaswamy
Aged About 53 Years,
R/at. D.No.1, Srinidhi Nivas,
1st Main, 4th Cross,
New Extension, K.R.Puram,
Bangalore-36.

4. **Sri. J.S Murali Babu,**
S/O. Late J.R.Shankarappa
Aged About 49 Years,
R/at. No. 360, Prtichard road,
Robertsonpet, KGF.
5. **Smt. J.S Manjula,**
D/O. Late J.R.Shankarappa
W/O. J.Govindappa,
Aged About 48 Years,
R/at. 132, 5, Kothapet Street,
B.Kothakote,
Chittor District, A.P.
6. **Smt. Lakshmid devi,**
W/O. Late J.R.Shankarappa
Aged About 62 Years,
7. **Sri. D.S. Jagananath,**
S/O. Late J.R.Shankarappa
Aged About 49 Years,
Def. no.6 and 7 are R/at.
No. 360, Pritchard Road,
Robertsonpet, KGF.

(By Sri K.V.S Advocate)

V/s.

Respondent :-

Smt. Ramakka,
W/O. Krishnareddy,
Aged About 60 Years,
R/at. Parandahalli Village and Post,
Bethamangala Hobli,
Bangarpet Taluk

(By Sri M.N.P Advocate)

**: ORDERS ON IA NO.7 FILED UNDER
ORDER VII RULE 11(A) (D) OF CPC:**

This application under order 7 rule 11(a) (d) of C.P.C is filed by defendants seeking to reject the plaint as it is barred by law.

2.In the annexed affidavit to IA, it is contended that the plaintiff has pleaded in her plaint that the schedule property is her ancestral property and originally it is standing in the name of Venkatareddy, S/O. Guruva Reddy the grand father of plaintiff and she got the same in a partition through compromise petition in OS no 86/2015, on file of learned Addl. Civil Judge at KGF. The persons filed the above said suit and also the defendants in the said suit absolutely have no manner of right or title to compromise the case. The said suit is collusive one by suppressing material facts the plaintiff is guilty of suppressing of the material facts. And that the plaintiff and her husband Krishna Reddy, have filed another suit against them before the learned Prl. Civil Judge KGF in OS no 123/2012, for the relief of permanent injunction in respect of the suit schedule property. The property covered under the schedule of the said suit is the part and parcel of the land bearing survey no. 20 measuring 4.14 acres including karab of 7 guntas. And that originally the land bearing survey \no.

20, measuring 4.07 acres including phut karab of 7 guntas above referred originally belong to Rajamma and her son Guruvareddy, they being owners in possession sold 1 acre of land out of the above said extent in favour of P.Narayana Reddy, S/O. Papireddy under registered sale deed dated 24-01-1980 and delivered possession to him. Subsequent to purchase of the said land, the purchaser P. Narayana Reddy, got converted from agriculture purpose to non agriculture purpose and also khatha was also mutata in his name.

03. It is further submitted that the subsequent to an order of conversion the above said P. Nayarana Reddy had sold the portion of converted land measuring East-West : towards Northern side 76 feet, towards southern side 147 feet and North-South 225 feet in favour of his father and 6th defendant Lakshmidevi i.e., his mother under registered sale deed dated 30-05-1990 and delivered possession to them. Subsequently, at the 1st instance, Kyasamballi Mandal Panchayath has transferred katha in their name after formation of grama panchayath, parandahalli grama panchayath has recorded kathas in their names. And that the even prior to purchase of the above referred property by their parents Venkatareddy had filed the suit against the vendors namely Rajamma and her son Guruva Reddy in OS no. 77/1980 for the relief of specific performance

pertaining to the land bearing survey no. 20, finally the said suit ended in compromise between thier parents and other parties of the said suit in which they have admitted the title and possession of 1 acre converted land P.Narayana Reddy and also the portion of the property out of it purchased by J.R Shankarappa and his wife 6th defendant Lakshmidevi, who are their parents. And that the original owner of the said property namely Rajamma and her son Guruvareddy, have already sold the entire property to several person namely Munirathnam Naidu to an extent of 3.07 acres and 1 acre in favour of P.Narayana Reddy above referred and thus Rajamma did not retain any land out of survey no. 20 of Parandahalli Village , as such the question of acquiring the suit schedule property or other extent in suit schedule survey no. either by way of succession, inheritance, compromise, testamentary succession etc., does not arise. Inspite of that, the plaintiff herein is filing the suit alleging different modes of acquisition when the mother of plaintiff Rajamma had already disposed of the entire extent in survey no. 20, the question of acquiring title or possession by her does not arise. And the suit of the plaintiff is barred by limitation without cause of action and without disclosing of the title, as such the plaint of the plaintiff needs to be rejected. With an intended to harass him and other defendants on the basis of concocted and fabricated

documents without disclosing true fact Hence they pray to reject the plaint.

4. On the other hand plaintiff has filed objection and contended that the defendant no.7 filed application along with affidavit before this court is totally vague and not in true facts. The defendant no.7 narrated the application that there is no valid reason and specification in the affidavit, she has narrated detailed how she acquired the suit schedule property in the plaint schedule in para no.4 and in spite of it this defendant is filed false affidavit along with application to harass the plaintiff and waste the court time before this court. The defendant no.7 has suppressed the real facts and he has not come up with clean hands before this court with an intention to harm and harass the plaintiff the defendant no.7 had filed this false and frivolous application. The plaintiff has filed this suit before this court against the defendants as per the court decree passed by the Addl. Civil Judge at KGF in OS no. 86/2015 and the concerned documents are already produced before this court and the suit schedule property acquired by the plaintiff as per decree, that she is in possession and enjoyment of the suit schedule property and the defendants are trying to interfere with the suit schedule property and denying the title of the plaintiff, hence the plaintiff has filed the suit against the

defendants. These are all the facts well known to this defendant and also other defendants. And this defendant is interfere with the peaceful possession of the plaintiff in the year 2017, till now there is no disturbance from any body and also after the decree obtained by the plaintiff in OS no 86/2015 she acquired the said property 1 acre 14 guntas in survey no. 20 out of 4 acres 14 guntas, the defendant no.7 is allowed the plaintiff will be put to irreparable loss and injury, which cannot be compensated by any other means. Hence he pray to reject the application.

5. Heard both side and perused the records.

6. On the basis of the above, the points that arise for my consideration is :

“ Whether it is proved that suit of the plaintiff is barred by law”

7. On going through the material available on record this court has answered the above point in the negative for the following:

REASONS

8. Plaintiff has filed the suit against defendants for the relief of permanent injunction over the suit schedule property.

9. Inspite of service of summons the defendants appeared through counsel and filed written statement and issues were framed and plaintiff himself examined as PW1 and EX.P1 to P4 are marked and case is posted for cross examination of PW1 at this stage defendants have filed IA No.7 and prayed to reject the plaint as it is barred by law.

10. It is contended by the defendants that there is no cause of action for the suit and also does not disclose the mode of acquisition of the suit schedule property. Perused the plaint averments, it reveals that plaintiff has pleaded the cause of action in para No. 10 of plaint. And also pleaded the mode of acquisition in para no 4 of plaint. The plaintiff has filed this suit for the relief of permanent injunction. Hence plaintiff has to prove his possession over the suit schedule property and alleged interference by the defendants. And it is a matter of trail. More over it is well settled principle of law that the written statement averment cannot be looked into before rejection of plaint. Therefore, defendants have not made out sufficient grounds to reject the plaint as prayed hence I answer the above point in the negative. In the result I proceed to pass the following

: ORDER :

**IA No.7 filed by the defendants under
order 7 Rule 11 (a) (d) of Civil procedure**

**code is hereby dismissed with cost of
Rs.200/-**

(Dictated to the stenographer, transcribed by her, corrected and then pronounced in the open Court
on this the 25th day of February 2020)

**(KIRAN S.P)
II Addl. Civil Judge & JMFC: K.G.F.**

