

KAKL510024952021



IN THE COURT OF II ADDL. CIVIL JUDGE AND J.M.F.C.,
AT : K.G.F

Present:

Smt. Shemida.K, B.A.(Law), LL.B.,
C/c II Addl. Civil Judge and J.M.F.C,
KGF

Original Suit No.299/2021

Dated this the 23rd day of July, 2025

Plaintiff : Sri.Srinivasa Naidu.C,
S/o Late Chalamaiah Naidu,
Aged about 57 years,
R/at No.1, Sanitary Board Colony,
Robertsonpet, KGF.

(Rep. By Sri.S.N.R., Advocate)

V/s

Defendants : 1. The Deputy Commissioner,
Kolar District, Kolar.

2. The Tahsildar,
KGF Taluk, KGF.

3. The Sub-Inspector of Police,
Robertsonpet Police Station,
Robertsonpet, KGF.

4. The Sub-Inspector of Police,
Andersonpet Police Station,
Andersonpet, KGF.

(D1 to D4 by AGP.,)

IA No.4

APPLICANTS : The Deputy Commissioner and Others
(Defendants)

V/s

OPPONENT : Sri.Srinivasa Naidu.C.
(Plaintiff)

i. Provision under which the application is filed	Under Order 7 Rule 11(d) of CPC filed by defendants
ii. Relief sought for	To reject the plaint
iii. The date on which the application is filed	19.09.2022
iv. Number of the application	IA.No.4
v. The date on which the objections are filed by different opponents	28.06.2025
vi. The date on which the orders were passed on the said application	23.07.2025

ORDERS ON I.A.No.4

The present application was filed by defendants under Order 7 Rule 11 (d) of CPC seeking to reject the plaint, in the interest of justice and equity.

2. In the memorandum of facts the learned AGP submitted that the present suit is not maintainable as it is suit for permanent injunction and without the issuance of statutory notice to the Government authorities under Sections 79 and 80 of CPC it was filed. Further submits that whenever the Government is making as parties, then Chief Secretary of Government of Karnataka must be party to the suit. But in

this case the plaintiff not made them as parties and it does not contain any cause of action. Further as per the case of the plaintiff the suit-schedule property coming in the Municipality Council, hence the defendant No.1 and 2 are not the necessary parties. Further the plaintiff has filed the suit to harass the said defendants and as per the ratio held in K.K.Sharma case, the present suit is not maintainable. Further highlighted the scope of Jagtu v/s. Surja Mal and others case and prays to reject the plaint.

3. On the other hand, the plaintiff has filed objection wherein it is contended that, the present application is not maintainable either in law or on facts. Further contended that he has filed the present suit against the defendants for the relief of permanent injunction. The main contention in the application is that he has not made Chief Secretary as one of the defendants. In this regard he has filed IA.No.5 which is pending for consideration, hence the contention raised by the AGP is full filled. Hence prays to reject the application.

4. Heard both the sides and perused the documents on record. The counsel for plaintiffs during the time of argument has filed a memo along with documents.

5. Now the points that arise for my consideration are:

1) Whether the applicant has made out grounds to reject the plaint under Order 7 Rule 11(d) of CPC at this stage as prayed for ?

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:-** Perused the entire records, instant application with affidavit and objection filed by the party and also arguments canvassed by the learned advocates for the parties. Admittedly the plaintiff has filed the present suit seeking the relief of permanent injunction against the defendants. When the matter was stood for hear on IA.No.III, the learned AGP has filed the present application which was opposed by the plaintiff.

8. It is to be noted that the counsel for defendants has filed the present application under U/O 7 Rule 11 (d) of CPC. The said provision deals about rejection of plaint which reads as follows:

***Order 7 Rule 11(d) : where the suit appears from
the statement in the plaint to be barred by any law.***

The above said provision clearly shows that the Court shall reject the plaint if any of the grounds specified in clauses (a) to (e).

9. In the present application the AGP contended that the plaintiff has not issued statutory notice under Sec.80 of CPC and not made Chief Secretary of Government of Karnataka as one of the party. Hence there is no cause of action and suit is

bad for mis-joinder of parties and defendant No.1 and 2 not the necessary parties. Per contra the plaintiff contended that already in this regard he has filed IA.No.5 under Order 1 Rule 10 r/w Sec.151 of CPC to implead Chief Secretary of Government of Karnataka as one of the party and it is pending for consideration. Hence the objection raised by the AGP is complied.

10. On this background I have perused the record. Admittedly the plaintiff has filed the present suit against defendant No.1 to 4 with respect of building contains two floors in Municipal Khatha No.1116 and Assessment No.1243, New Khatha No.293 and New Assessment No.338 measuring 33X50 feet and vacant site measuring 27X58 ft. It is true that the plaintiff while filing the present suit has not filed any application to exempt the statutory notice against the defendants and it is proceeded with, but issuance of statutory notice and not issuance of said notice is not the ground to reject the plaint.

11. Further in the plaint averments the plaintiff stated that the cause of action for the suit arose on 26.08.2021 and 18.09.2021 when the defendants made attempt to dispossess the plaintiff from the suit-schedule property. It is to be noted that the Hon'ble High Court of Karnataka in **ILR 2008 KAR 390-MRS.ANURADHA SHENOY V/s N.NANJAPPA** it was held that *while considering the application filed under Order 7 Rule 11(d) of CPC the Court shall consider the averments made in the*

plaint and nothing else. During the time of argument the counsel for plaintiff has furnished the documents which not taken into consideration as per the ratio held in above said decision.

12. Further in the application the main contention of the AGP is that the plaintiff not made Chief Secretary of Government of Karnataka as one of the party and the defendant No.1 and 2 is not required for the adjudication of the suit as the suit property comes under Municipality jurisdiction. It is true that the suit-schedule property is Municipal Council Khatha number, but the question of non-joinder, mis-joinder of parties are not the grounds of rejection of plaint. Moreover IA.No.5 filed by the plaintiff under Order 1 Rule 10 r/w 151 of CPC is pending for consideration and it is posted today for orders.

13. Further it is pertinent to note that the purpose of rejection of plaint is to maintain the integrity of system by preventing, frivolous Civil suit and ensuring efficient use of judicial resources. Further as per Sec.9 of the CPC all suits are maintainable, unless and until it is expressly or impliedly barred by any law. Further there are no other grounds of rejection of plaint was stated by the applicant. Therefore the applicant has not made out grounds to consider the application. Hence the present application is devoid of merits. With these observations, **I answer the Point No.1 in the Negative.**

14. Point No.2: Accordingly, I proceed to pass the following;

-:: O R D E R ::-

***I.A No.4 filed by the learned AGP U/Order 7
Rule 11(d) of CPC is hereby rejected with the cost
of Rs.200/-.***

(Dictated to the Stenographer directly on computer and revised and corrected by me then pronounced in the open court, this the **23rd Day of July, 2025**).

**Sd/-
(SHEMIDA.K)
C/c II Addl. Civil Judge & JMFC
KGF**