

**IN THE COURT OF THE I ADDL. SENIOR CIVIL JUDGE
AND JMFC., AT K.R.PETE**

Dated this 23rd day of June- 2026

Present : DEVARAJU H.R. BA., LLB.,
I Addl. Sr. CJ & J.M.F.C.,
K.R.Pete.

O.S.No.52/2025

PLAINTIFF/S:

Sri. Ramegowda
S/o Late Papegowda,
aged about 65 years,
R/o Ballekere village,
Bookanakere hobli,
K.R.Pete taluk,
Mandya district.

(By Sri.BCD Adv)

-V/s-

DEFENDANT/S:

1. Smt. Nagamma
W/o Late B.Thimmegowda
aged about 70 years,

2. Sri. Sathisha
S/o late B.Thimmegowda,
aged about 49 years,

Both are R/o
Ballekere village,
Bookanakere hobli,
K.R.Pete taluk,
Mandya district.

(By Sri. VSD Adv,)

I.A.NO.III**Applicants/Defendants:**

Smt. Nagamma and Another

-V/s-

Opponent/Plaintiff :

Sri. Ramegowda

ORDERS ON I.A.NO.III

Learned counsel for the defendants has filed IA No.III U/order 7 Rule 11 R/W/Sec. 151 of CPC and prays for reject the plaint as it does not discloses cause of action.

2. The defendant No.2 in annexed affidavit to the application has stated that, plaintiff has filed present suit for Partition of his ½ share in the amount deposited by the Land Acquisition Officer before this court. The suit is not maintainable on the fact that already family partition effected between the plaintiff and defendants. Hence, suit has no cause of action and it is barred under the land acquisition Act 1984. The plaintiff has no locus-standi to file the present suit as his name has not been appeared in a award passed in LAC No. 2/2018.

3. The defendant No. 2 further stated that, defendants have filed Execution Petition in Ex.No. 48/2023 and he has filed necessary vouchers to receive the amount. But plaintiff has filed present suit

without any cause of action. He lost his lands for the public purpose. The plaintiff has no prima facie case to receive the amount. He is trying to grab the proceedings in order to avoid the defendants to receive the amount which deposited before this court. Hence, he sought for reject the plaint.

4. On the other hand plaintiff has filed objection to the present application by contending that application filed by the defendants is not maintainable either in law or on facts. The plaint clearly discloses a valid cause of action. The averments of the affidavit of the defendant No.1 can not be decided at this preliminary stage. He has deliberately misrepresented the facts in the affidavit with an intention to drag the proceedings to defeat the right of the plaintiff over the suit schedule amount. By contending so, he sought for dismiss the application.

5. Heard arguments. Perused the available materials on record.

6. The following points would arise for the consideration of this Court as follows:

**1. Whether the plaint presented
by the plaintiff does not discloses
a cause of action?**

2. What order?

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

Point No:1. **In the Negative,**

Point No.2: **As per final order**

for the following:-

REASONS

8. Point No 1: The plaintiff has filed present suit for partition of his legitimate $\frac{1}{2}$ share in the amount of Rs. 17,03,998/- deposited by the Kaveri Neeravai Nigama Niyamitha before this court.

9. I gone through the plaint. The plaintiff averred that suit item No. 1 of the property bearing Sy. No. 71/8 measuring 17 guntas has been allotted to husband of the defendant No.1 namely Sri.Thimmegowda and property bearing Sy. No. 71/10 measuring 15 guntas mutated into his name. The land acquisition officer had acquired the property measuring 8 guntas in Sy. No. 71/8 and 8 guntas in Sy. No. 71/10. Accordingly, land has been deducted in his RTC extract accordingly in LAC No. 2/2018 award has been passed. As per the award the Land Acquisition Officer has deposited the amount of Rs. 17,03,998/- in Ex.No. 48/2023. The defendants without made him as party to the proceedings has got release the amount of Rs. 8,17,673/- in their favour. He is entitle for remaining amount which deposited by this court. Because remaining amount with respect to 8 guntas of his property as the Land Acquisition Officer had acquired the 8 guntas of the property in his

property. However, defendants are trying to get the entire amount including his share. Hence, he has filed present suit for partition in the amount of Rs. 17,03,998/-.

10. On the other hand defendants have denied the allegations of facts made by the plaintiff that he is entitle for $\frac{1}{2}$ share in the deposited amount. It is relevant to note here Order VII Rule 11 of CPC read as follows.

11. Rejection of plaint.— The plaint shall be rejected in the following cases:

(a) where it does not disclose a cause of action;

(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

(c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law;

(e) where it is not filed in duplicate;

(f) where the plaintiff fails to comply with the provisions of rule 9:

Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.

11. A plain reading of the above said provision makes it clear that when averments of the plaint does not disclose cause of action and statement of the plaint is barred by law and other circumstances which embodied in above section court can reject the plaint.

12. It is well settled that in order to consider an application U/order 7 Rule 11 the court has to scrutinize the averments/ pleas in the plaint and to

consider the application which filed U/order 7 Rule 11 of CPC defense of the defendant is irrelevant as the application for rejection of the plaint has to be decided only on the averments of the plaint. Keeping this principle in mind I proceed to discuss on averments of the plaint.

13. Once again I repeat that it is the contention of the plaintiff that, he is entitle for $\frac{1}{2}$ share in the amount deposited before this court. The defendants have already got release the amount in their favour which is equivalent to their share. Hence, he is entitle for remaining amount which deposited before this court. Admittedly, cause of action is bundle of facts and legal grounds that gives a person the right to seek a remedy from a court against the defendants. In this suit it is the contention of the plaintiff that properties of the plaintiff and defendants equally acquired by the land Acquisition Officer to an extent of 8 guntas each. However, the defendants have misrepresented the facts before the Special Land Acquisition Officer and get the award in their favour. Hence, he has filed present suit for seeking his legitimate $\frac{1}{2}$ share in the amount deposited by the Special Land Acquisition Officer. Question is whether plaintiff is entitle for $\frac{1}{2}$ share in the amount or not is subject matter of trial. On over all perusal of the plaint it clearly appears that there is a cause of action for the suit to present the plaint before

this court. It is relevant to note here decision reported in **(2020) 7 SCC 366** (between ***Dahiben v. Arvindbhai Kalyanji Bhanusali***) wherein Hon'ble Supreme Court of India at para No. 23.2 to 23.5 has held that,

23.2. The remedy under Order 7 Rule 11 is an independent and special remedy, wherein the court is empowered to summarily dismiss a suit at the threshold, without proceeding to record evidence, and conducting a trial, on the basis of the evidence adduced, if it is satisfied that the action should be terminated on any of the grounds contained in this provision.

23.3. The underlying object of Order 7 Rule 11(a) is that if in a suit, no cause of action is disclosed, or the suit is barred by limitation under Rule 11(d), the court would not permit the plaintiff to unnecessarily protract the proceedings in the suit. In such a case, it would be necessary to put an end to the sham litigation, so that further judicial time is not wasted.

23.4. In *Azhar Hussain v. Rajiv Gandhi* [*Azhar Hussain v. Rajiv Gandhi*, 1986 Supp SCC 315. Followed in

***Manvendrasinhji Ranjitsinhji Jadeja v. Vijaykunverba*, 1998 SCC OnLine Guj 281 : (1998) 2 GLH 823]** this Court held that the whole purpose of conferment of powers under this provision is to ensure that a litigation which is meaningless, and bound to prove abortive, should not be permitted to waste judicial time of the court, in the following words : (SCC p. 324, para 12)

“12. ... The whole purpose of conferment of such powers is to ensure that a litigation which is meaningless, and bound to prove abortive should not be permitted to occupy the time of the court, and exercise the mind of the respondent. The sword of Damocles need not be kept hanging over his head unnecessarily without point or purpose. Even in an ordinary civil litigation, the court readily exercises the power to reject a plaint, if it does not disclose any cause of action.”

23.5. The power conferred on the court to terminate a civil action is, however, a drastic one, and the conditions enumerated in Order 7 Rule 11 are required to be strictly adhered to.

14. As per the ratio laid down in the above said decision to see whether the plaint discloses cause of action, the court has to scrutinies the averments/pleas in the plaint. Averments in the written statement are wholly irrelevant. If the allegations in plaint do not disclose a clear right or material(s) to sue, or creates an illusion of a cause of action by cleaver drafting, court should reject the plaint at first hearing. In case on hand it is the contention of the plaintiff that he has legitimate $\frac{1}{2}$ share in the suit schedule amount. The defendants have pleaded that already partition effected between the plaintiff and his brother. It is interesting to note that plaintiff also admitted the partition. But he is claiming that property measuring 8 gunta each acquired by the Land Acquisition Officer in his property and defendants. Hence, in order to ascertain the right of the plaintiff over the schedule amount trial is required. Hence, I am of the opinion that on perusal of the entire plaint it appears that plaintiff has filed present suit by ascertaining proper reasons for seeking partition in the schedule amount. There is no bar to seek partition in the amount. Hence, I hold that plaint is disclosed cause of action and it is not liable to be rejected at threshold. Accordingly, I hold Point No.1 in the **Negative**.

15. Point No.2:- On above made discussions on points No.1, this court proceeds to pass following:-

ORDER

**I.A.No.III filed by the defendants
under order U/order 7 Rule 11 R/W/Sec.
151 of CPC is hereby rejected.**

(Dictated to the Stenographer directly on the computer, typed by her, corrected and then pronounced by me in open court, this the **23rd** day of **June-2026**)

(DEVARAJU H.R.)
I Add.Sr.CJ and J.M.F.C.,
K.R.Pete.