

KAMD400008872022



**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC,  
AT MALAVALLI**

**PRESENT**

**SRI.MAHENDRA.M** B.A, LL.B.,  
Senior Civil Judge & JMFC,  
Malavalli.

**Dated this 11<sup>th</sup> day of July-2025**

**O.S. NO.160/2022**

**PLAINTIFFS** : Smt Puttathayamma and  
others

**-V/s-**

**DEFENDANTS** : Smt. Shivarudramma and  
others

**I.A.No.II**

**APPLICANTS/  
DEFENDANTS**

: **1. Smt. Shivarudramma**  
W/o Late Ramakrishnegowda @  
Rajanna,  
Aged about 65 years,  
R/o Banasamudra Village,  
Kasaba Hobli, Malavalli Taluk.

**2. Smt. Shobha**  
D/o Late Ramakrishnegowda @  
Rajanna,  
W/o Ramesha,  
Aged about 35 years,  
R/o Pandithahalli Village,  
Kasaba Hobli, Malavalli Taluk.

**3. Smt. Savitha**

D/o Late Ramakrishnegowda @  
Rajanna,  
W/o Prakash,  
Aged about 33 years,  
R/o Basavanapura Village,  
Kasaba Hobli, Malavalli Taluk.

**4. Smt. Suguna**

D/o Late Ramakrishnegowda @  
Rajanna,  
W/o Krishna,  
Aged about 30 years,  
R/o Vaddarahalli Village,  
Kasaba Hobli, Malavalli Taluk.

**(By. Sri.H.C.S., Advo.,)**

**V/S**

**OPPONENTS/  
PLAINTIFFS:**

**1. Smt. Puttathayamma**

W/o Thimmegowda  
Aged about 58 years,

**2. Smt. Bhagyamma**

D/o Mayigowda  
Aged about 61 years,

**3. Sri. Krishna**

S/o Late Mayigowda  
Aged about 56 years,

**4. Smt. Shanthamma**

W/o Sheshappa  
Aged about 50 years,  
R/o Doddegowdanakoppalu.

**5. Smt. Radha**

W/o Late Rajendra  
D/o Late Mayigowda  
Aged about 56 years,

**6. Sri. Srinivasu**

S/o Late Mayigowda  
Aged about 54 years,

**7. Sri. Lakshmana**

S/o Mayigowda  
Aged about 52 years,  
R/o Aaluru Village, Kasaba Hobli,  
Maddur Taluk.

**8. Smt. Lakshamma**

D/o Late Mayigowda  
Aged about 46 years,

**P1, 3, 5, 6 are** R/o Banasamudra Village,  
Kasaba Hobli, Malavalli Taluk.

**(By.Sri.T.K., Advo.,)**

I	<i>Provision under which the application is filed</i>	<i>Under Order VII rule 11(a) and (d) Read with Section 151 of C.P.C</i>
II	<i>Relief sought for</i>	<i>Rejection of plaint</i>
III	<i>The date on which the application is filed</i>	<i>09.10.2023</i>
IV	<i>Number of the application</i>	<i>I.A No. II</i>
V	<i>The date on which the objection are filed by deferent opponents</i>	<i>19.02.2024</i>
VI	<i>The date on which the orders were passed on the said application</i>	<i>11.07.2025</i>

**Senior Civil Judge & JMFC,  
Malavalli.**

**ORDERS ON I.A No.II**

The learned counsel for the defendants has filed an I.A. No.II under Order VII rule 11(a) and (d) Read with

Section 151 of C.P.C seeking reject the plaint for want of cause of action and barred by law of limitation.

2. The defendant No.4 has filed an sworn affidavit in support of application, wherein the plaintiffs have filed this suit against the defendants for the relief of Declaration and other reliefs in respect of suit schedule property. While drafting the plaint, the plaintiffs intentionally not disclose the date of partition and date of acceptance of mutation in respect of suit schedule property which is mainly subject matter of revenue appeal and writ petition. The MR No.152/1998-99 has been accepted on 30.04.1999, in the said mutation there is clear averments regarding the consent given by Mayigowda i.e., father-in-law plaintiff No.1 and 5. As per said averments, the cause of action arose on 30.04.1999 and the plaintiffs ought to have file the suit within 3 years from the date of said mutation. Till the death of Mayigowda and his brother B.T.Ramakrishnegowda @ Rajanna, the plaintiffs have not chosen to file any appeal or suit before any court. After their death, the plaintiffs filed this suit.

3. The defendant No.4 further submitted that, the writ petition No.11066/2022 dismissed by Hon'ble High Court of Karnataka. The observation made by the Hon'ble High Court of Karnataka that, the petitioners are required to approach a competent court and secure a declaration at the hands of the civil court regarding their rights in

respect of the land it follows that as and when the petitioners succeed in getting a declaration they are entitled to enter their names in the land revenue records. After the lapse of more than 21 years, the suit came to be filed. Hence, the present suit is barred by law of limitation. The plaintiffs have mentioned cause of action in paragraph No.6 of the plaint as 22.04.2022 and 07.09.2022 it is clearly goes to shows the plaintiffs for their convenient mention the same. The plaintiffs not mention the actual cause of action i.e., 30.04.1999. On this ground also, the plaint may be rejected. After lapse of 24 years, the plaintiffs filed the present suit. If this application is not allowed, the defendants will be put to irreparable loss and injury which cannot be compensated. **Hence filed this application.**

4. The learned counsel for the plaintiffs has filed an objection to application and contended that, the application filed by the defendants is not maintainable either in law or on facts the same is liable to be dismissed in limine. The defendant No.4 has filed false affidavit before this court. The plaintiffs have filed the suit as per law. The grounds mentioned by the defendants in the application, the same will be consider at the time of appreciation of evidence. The defendants not mentioned valid grounds in the application. **Hence, prayed that, dismiss the application filed by the defendants with cost.**

5. Heard the arguments from the learned counsels appeared on behalf of the parties to the suit.

6. The following points are arise for consideration of this court:-

### **POINTS**

- 1. Whether the plaint presented by the plaintiffs is deserves to be rejected for want of cause of action and barred by law of limitation?**
- 2. What order?**

7. This court has perused the material available on record. The findings of this court on the above points as follows:-

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

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

### **REASONS**

**8. POINT NO.1**:- The defendants have filed this application seeking reject the plaint for want of cause of action and barred by law of limitation.

**9. Under Order VII Rule 11 of Code of Civil Procedure** to provides under what circumstances court can reject the plaint. The said provisions reads as follows:

**Rejection of Plaint:-** The plaint shall be rejected in the following cases-

- a) **Where it does not disclose cause of action.**
- b) **Where the relief claimed is undervalued, and the plaintiff, on being required by the court to so 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 written upon paper insufficiently stamped, and the plaintiff, on being required by the court to supply the requisite stamped 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 papers shall not be extended unless the court, for reasons to be recorded, is satisfied that the plaintiff**

**has prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp papers, as the case may be, with in the time fixed by the court and that refused to extend such time would cause grave injustice to the plaintiff.**

10. Keeping in mind in well settled legal position, this court has discuss the maintainability of the suit. The Hon'ble High Court of Karnataka held that, for the purpose of involving the rejection of plaint only looked into plaint in case of **Kamala and Others V/s K.T. Eshwara Sa reported in(2008)12 SCC 661 the Hon'ble High Court of Karnataka** observed in Para No.21 and 22 reads as follows:

**“Para No.21:- Order 7 Rule 11(d) of the code has limited application. It must be shown that the suit is barred under any law. Such a conclusion must be drawn from the averements made in the plaint. Different clauses in order 7 Rule 11, in our opinion, should not be mixed up. Where in a give case, an application for rejection of the plaint may be filed on more than one ground specified in various sub-clauses thereof, a clear finding to that effect must be arrived at what would be relevant for involving clause(d) of order 7 Rule 11of the code are the averements made in the**

**plaint. For that purpose, there cannot be any edition or sub-traction. Absence of jurisdiction on the part of a court can be involved at different stages and under different provisions of the code. Order 7 Rule 11 of the code is one, order 14 Rule 2 is another.**

**Para No.22:- For the purpose of involving order 7 Rule 11(d) of the code, no amount of evidence can be looked in to. The issues on merit of the matter which may arise between the parties would not be within the realm of the court at the stage. All issues shall not be the subject matter of an order under the said position."**

11. As per the above said decision when decide the application for rejection of plaint only looked in to plaint not for other material on record. The brief discussion about the plaint averments is required. **The averments of the plaint in brief as follows:**

One Thimmegowda was the proposer of the family. He had children namely Mayigowda, Ramakrishnegowda, Thimmegowda @ Puttaswamygowda and B.V.Basavaiah. The defendant No.1 is the wife of Ramakrishnegowda and defendant No.2 to 4 are the sons of Late Ramakrishnegowda. As per paluparikath, the said persons are in possession and enjoyment over their respective shares. The father of the plaintiffs namely Mayigowda had

purchased the suit schedule property from Chikkabasappa through registered sale deed dated 15.04.1982. The defendants without consent of plaintiffs got katha in respect of suit schedule property and other properties their names. The appeal was filed before revenue authority. The Deputy Commissioner directed to plaintiffs to approach the Civil court. The plaintiffs have filed the writ petition before Hon'ble High Court of Karnataka in WP No.11066/2022. The Hon'ble High Court of Karnataka upheld the Order of Deputy Commissioner. **Hence, filed this suit.**

12. The plaint can be rejected by the court it is does not mentioned a cause of action which is to be taken by the plaintiffs against the defendants. It is perceived as on abuse of the process of law. In the present suit the plaintiffs mentioned the cause of action to file this suit in para No.6 of the plaint.

13. The learned counsel for the defendants has relied upon the following decisions:

1. **2020(16) SCC 601 between Raghwendra Sharan Singh V/s Ram Prasanna Singh dead by Lrs.** In this decision held that, plaint liable to be rejected if on entire and meaningful (not formal) reading of averments of plaint, it is found to be not disclosing a cause of action and clear right to sue or is found to be barred by law of limitation, hence, vexatious and meritless- perusal of records and other documents, averments in written statement or contentions of defendant, immaterial-

considering averments of plaint as whole, if suit found to be barred under article 59 of the Limitation Act, plaint cannot be allowed to circumvent that provision by means of clever drafting so as to avoid mention of those circumstances by which suit stood barred by limitation.

**2. 2024(5) SCC 282 between Vasantha Dead by Lrs V/s Rajalakshmi @ Rajam Dead by Lrs.** In this decision held that, suit for declaration of title without seeking recovery of possession, reiterated, not maintainable when plaintiff not in possession. Suit for declaration of title by reversioner- limitation- for any suit for which no period of limitation stands provided in schedule to the limitation Act, reiterated, right to suit accrues from date on which cause of action arose first-present suit for declaration of title by reversioner.

**3. 2025 SCC Online SC 779 between Nikhila Divyang Mehta and another V/s Hitesh.P Sanghvi and others.** In this decision held that, a suit barred by limitation under order 7 rule 11 (d) of CPC cannot be entertained even if limitation is not set up as a defense. The limitation period begins when the cause of action first accrues, and subsequent knowledge or additional reliefs cannot extend the limitation period.

With great respect, the above decisions relied by the learned counsel for the defendants are not applicable to present facts and circumstances of the case.

14. The defendants taken another ground that, the suit of the plaintiffs is barred by law of limitation. The point of limitation is mixture of law and facts. The same will be consider after the trial i.e., at the time of appreciation of evidence. In this stage, cannot looked the point of limitation. Hence, the ground taken by the defendants is not tenable under the law. The above discussion, the plaint disclosed the cause of action. The cause of action is the bundle of facts. The application filed by the defendants is not maintainable. **With these observations this court has answer the point No.1 in the Negative.**

**15. Point No.2:-** In view of above discussion this court proceeds to pass the following :-

### **O R D E R**

**I.A.No.II filed by the defendants under order-VII Rule-11(a) and (d) Read with section 151 of C.P.C., is hereby dismissed with cost of Rs.500/-.**

(Dictated to the Stenographer and directly typed by her on the computer, Order corrected and signed by me, then pronounced by me in the Open Court on this the **11<sup>th</sup> day of July-2025**).

**Senior Civil Judge & JMFC.,  
Malavalli.**