

**IN THE COURT OF PRL. CIVIL
JUDGE & JMFC., SRIRANGAPATNA.**

DATED THIS THE 18th DAY OF MARCH 2023

:PRESENT:

**Sri.Devaraj.Y.H., B.A.L., L.L.B.,
PRL. CIVIL JUDGE & JMFC.,
SRIRANGAPATNA.**

O.S.No.199/2014

Plaintiffs	Narasimha S/o Dasegowda, Aged 42 years, R/o Hulikere village, Belagola Hobli, Srirangapatna Taluk, Mandya District. Now residing at Challahalli, Bilikere Hobli, Hunasur Taluk, Mysore District. (By Sri. N.K.S - Advocate)
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V/S

Defendants	1. Marilingegowda S/o Late Chooriningegowda, Aged 60 years, 2. Ramalingegowda S/o Late Chooriningegowda, Aged 55 years, 3. Rajanna S/o Late Chooriningegowda, Aged 50 years,
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	4. Raju S/o Late Komme Boregowda, Aged 48 years, 5. Suvarna W/o Late Mahadevu, Aged 40 years, All the defendants are the R/o Hulikere village, Belagola Hobli, Srirangapatna Taluk, Mandya District. (D1 to 3 Rep. By Sri. M.S.S - Advocate) (D4 & 5 Rep. By Sri. C.R.S. - Advocate)
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ORDERS ON THE IA No.5 FILED BY THE DEFENDANT No. 1 to 3 UNDER ORDER XIV RULE 5 R/w. Sec. 151 OF CODE OF CIVIL PROCEDURE.

That the Defendant No.1 to 3 filed this IA and prays to frame the additional issue with regarding to the pecuniary jurisdiction is concerned in the interest of justice and equity.

2. Defendant No.3 filed affidavit in support of this IA and stated that this suit filed by the plaintiff for the relief of declaration with regarding to the suit property. Further contended that the value of the suit property is more than Rs.

15,00,000/-, as such additional issue has to be framed with regarding to the pecuniary jurisdiction to try this suit is concerned. Hence prays to allow the IA.

3. On the contrary Counsel for the plaintiff filed objections to the IA & contended that the application filed by the defendants is not maintainable either in law or on fact. Stated that defendants have also filed another suit seeking for the relief of declaration and consequential relief of permanent injunction on the file of this Court in OS No. 319/2014 pertaining to the suit property is concerned and the same is pending for consideration, as such the present IA is not maintainable. Further contended that the present IA is filed just with an intention to protract the proceedings of this case. By contending all these grounds counsel for the plaintiff prays to dismiss this IA with cost.

4. Perused the IA, Objections and other materials available on record. Below mentioned points aisen for my consideration.,

POINTS

1. Whether the Defendant No.1 to 3 made out grounds consider their application filed under Order 14 Rule 5 R/w Sec. 151 of CPC and grant the relief as sought for?

2. What order?

5. Heard counsel for both parties. Perused the IA, Objections and the other materials available on record. My findings to the above points is as hereunder.,

Point No.1: In the Affirmative.

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

REASONS

6. Point No.1: This is the IA filed by the Defendant No.1 to 3 filed this IA and prays to frame the additional issue with regarding to the pecuniary jurisdiction is concerned in the interest of justice and equity.

7. Counsel for the Defendant No.1 to 3 argued that the this suit filed by the plaintiff for the relief of declaration with regarding to the suit property. It is argued that the value of the suit property is more than Rs. 15,00,000/-, as such

additional issue has to be framed with regarding to the pecuniary jurisdiction to try this suit is concerned. Hence prays to allow the IA.

8. On the contrary Counsel for the plaintiff argued that defendants have also filed another suit seeking for the relief of declaration and consequential relief of permanent injunction on the file of this Court in OS No. 319/2014 pertaining to the suit property is concerned and the same is pending for consideration, as such the present IA is not maintainable. Further argued that the present IA is filed just with an intention to protract the proceedings of this case. Hence prays to dismiss this application with cost.

9. Perused the records and the arguments addressed by the counsel for both parties. This is the suit filed by the sought for the relief of declaration and consequential relief of permanent injunction with respect of the suit property. Defendant No.1 to 3 filed the written statement, therein at para 9 & 10; they have taken a specific plea that the suit

property is valued more than Rs. 10,00,000/- as such this Court has no pecuniary jurisdiction to try this suit and grant the relief as sought by him.

10. On perusal of the issues framed by this Court, it discloses issue has not been framed with respect of pecuniary jurisdiction is concerned. On perusal of the pleadings of the parties and the nature of the relief sought by the plaintiff, this Court opines there is a necessity to frame the issue pertaining to the pecuniary jurisdiction is concerned.

11. Mere filing of another suit before this Court by the defendants in OS No.319/2014 pertaining to the property mentioned in the plaint seeking for the relief of declaration and consequential relief of permanent injunction is a not bar to frame the additional issue pertaining to the pecuniary jurisdiction is concerned. Hence the objections raised by the plaintiff is not sustainable one. Defendant Nos. 1 to 3 made out grounds to consider their application and grant the relief as claimed by them in this IA. If this application is rejected, it

is going to cause any loss or injury to the Defendant Nos. 1 to 3. Hence I proceed to answer this Point in the Affirmative.

12. Point No.2: For the reasons as discussed in Point No.

1, I proceed to pass the following.,

ORDER

IA No.5 filed by the
Defendant Nos. 1 to 3 under
Order XIV Rule 5 R/w Section
151 of CPC is allowed.

Additional Issue
regarding pecuniary
jurisdiction is framed.

(Typed myself on the LAPTOP, corrected and then the order pronounced in the Open Court on this 18th day of March - 2023)

(Devaraj.Y.H.,)
Prl. Civil Judge & JMFC,
Srirangapatna