

ORDER ON I.A. No. 4
KAMD720001572021

O.S. No. 75/2021



**IN THE COURT OF THE PRL. CIVIL JUDGE AND JMFC AT
SRIRANGAPATNA.**

Dated this 10th day of December, 2024

**Present : Sri. HARISHKUMAR. M, B.Com. LLB.
Prl. Civil Judge and JMFC, Srirangapatna.**

O.S. NO. 75/2021

PLAINT CAUSE TITLE

PLAINTIFF:

Sri. Abdul Raheem,
S/o Late. Abdul Majid,
Age: 42 years,
R/o Mallikyathanahalli,
B.G.Pura Hobli,
Malavalli Taluk,
Mandya District.
(By Sri. N. K. S., Advocate)

- Versus -

DEFENDANT :

Smt. Naseema Anjum,
W/o Late. Abdul Naseem,
Age: 39 years,
R/o No.918, 1st stage,
J. K. Park,
Rajeevnagar,
Madegowda Circle,
Mysuru City.
(Rep. by Sri. I. K. R., Advocate.)



I.A. No. 4 CAUSE TITLE.

APPLICANT/DEFENDANT :

Smt. Naseema Anjum,
W/o Late. Abdul Naseem,
Age: 39 years,
R/o No.918, 1st stage,
J. K. Park,
Rajeevnagar,
Madegowda Circle,
Mysuru City.

- Versus -

OPPONENT/PLAINTIFF :

Sri. Abdul Raheem,
S/o Late. Abdul Majid,
Age: 42 years,
R/o Mallikyathanahalli,
B.G.Pura Hobli,
Malavalli Taluk,
Mandya District.

1	Provision under which the application is filed	Under Order VII Rule 11 Read with Sec.151 of CPC
2	Relief sought for	Seeking to reject the plaint.
3	The date on which the application is filed	03.06.2022.
4	Number of the application	4
5	The date on which the objections are filed by different opponents	03.03.2023
6	The date on which the orders were passed on the said application	10.12.2024.



**ORDER ON INTERLOCUTORY APPLICATION No. 4 UNDER
ORDER VII RULE 11 READ WITH SECTION 151 OF CIVIL
PROCEDURE CODE FILED BY THE DEFENDANT.**

1. When the matter has been posted for hearing on IA No.1, the Defendant has filed application under Order VII Rule 11 read with Section 151 of Civil Procedure Code as per I.A. No. 4 seeking to reject the plaint on the ground that the suit is does not discloses the cause of action and the documents submitted by the plaintiff is untenable.
2. The plaintiff herein filed this suit for the relief of declaration and permanent injunction against the defendant and such other reliefs.
3. After institution of the suit this Court has issued suit summons to the defendant and she has appeared before the Court and she has filed her written statement, when the matter has been posted for hearing on IA no. 1, the defendant has filed IA No. 4 seeking to reject the plaint.
4. On the other hand the plaintiff has filed his statement of objections to IA No. 4.
5. Both the counsels have addressed arguments on IA No. 4 and this Court has perused records.
6. This court has framed the following points for consideration:



1. **Whether defendant has made out grounds to allow the IA No.4 filed Under Order 7 Rule 11 of CPC and thereby plaint has to be rejected?**
2. **What order?**

7. Findings of this Court on these points is as follows:

Point No. 1 : In the Negative.

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

REASONS

8. **Point No.1:-** It is a matter of record that the plaintiff herein filed this suit for the relief of declaration, declaring that the plaintiff is the absolute owner of the suit schedule property and permanent injunction based on the fact that, he has acquired the suit schedule property by way of will deed dated 05.09.2018 and he is in possession and enjoyment of the suit schedule property, the defendant herein interfering in the peaceful possession and enjoyment of the suit schedule property and she has trespassed into the suit schedule property and illegally took the paddy crop grown in the suit schedule property, he has lodged police complaint, but there is no fruitful results, hence he has lodged the complaint.
9. On the other hand the defendant has filed her written statement and denied the plaint averments and further



contended that, the will deed has been created by the plaintiff in order to make illegal fain the there is no cause of action to file this suit, hence she prays to dismiss the suit.

10. When the matter has been posted for hearing on IA No. 1, the defendant has filed IA No. 4 seeking to reject the plaint on the ground that the suit documents are not legally tenable and the suit does not disclosed cause of action.
11. On the other hand the plaintiff filed objections and stated that, the plaintiff has specifically stated the cause of action in para 10 of the plaint, before conclusion of trial it cannot be said that the sill deed is concocted and it is not genuine and the plaintiff has to face the trial to prove his case, hence the IA No. 4 is not maintainable and prays to dismiss the IA No. 4.
12. Both the counsels have addressed their arguments and reiterated the facts mentioned in the respective pleadings.
13. This Court has carefully gone through the records and it reveals that the defendant herein filed IA No. 4 seeking to reject the plaint on the ground that, the suit documents are not legally tenable and the suit does not disclosed cause of action.
14. At this stage it is profitable to refer the provision of Order VII Rule 11 of Code of Civil procedure as hereunder:



Order VII Rule 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.**

On perusal of the said provisions and the records, at this stage it is necessary to refer the cause of action mentioned in para 10 of the plaint as hereunder:

“The Cause of Action for the suit arose on in the month of 11.12.2020 the defendant trespassed into the suit schedule she has illegally took the paddy crop grown by the plaintiff and she continuously interferes the plaintiff



peaceful possession and enjoyment of the property by lodge a false complaint against the plaintiff and subsequently also. ”

On careful reading of cause of action para, it reveals that, according to plaintiff, the cause of action arose on 11.12.2020.

15. At this stage it is to be note that, for filing a suit, the plaintiff needs to have a locus standi. He/She needs to show that some legal right of the person has been violated. Such violation should also result in some injury caused to the person. If no legal right has been violated, the person will not have a locus standi for filing a suit. It is basically the ability of the party to show the Court that there was a sufficient cause of action behind the filing of the suit. Under Order VII Rule 11, the locus standi of the suit depends upon whether any grounds were violated which resulted in rejection of the plaint.
16. At this stage it is profitable to refer the judgment passed by the Hon'ble High Court of Karnataka and the same has been reported in ILR 2010 Karnataka 903 (Ashok Kumar Chowan and Another V/s A.G. Anwar Ali and another) wherein the Hon'ble High Court of Karnataka pleased to held that “for rejecting the plaint the averments of the plaint alone has to be considered”. On perusal of same, the said decision is directly applicable in the present case on hand.



17. The defendant contended that the suit of the plaintiff is not maintainable as there is no cause of action, at this juncture it is profitable to refer the provisions of Order VII Rule 1 of CPC as hereunder:

Order VII Rule 1. Particulars to be contained in plaint.—The plaint shall contain the following particulars:—

- (a) the name of the Court in which the suit is brought;**
- (b) the name, description and place of residence of the plaintiff;**
- (c) the name, description and place of residence of the defendant, so far as they can be ascertained;**
- (d) where the plaintiff or the defendant is a minor or a person of unsound mind, a statement to that effect;**
- (e) the facts constituting the cause of action and when it arose;**
- (f) the facts showing that the Court has jurisdiction;**
- (g) the relief which the plaintiff claims;**
- (h) where the plaintiff has allowed a set-off or relinquished a portion of his claim, the amount so allowed or relinquished; and**
- (i) a statement of the value of the subject-matter of the suit for the purposes of jurisdiction and of court-fees, so far as the case admits.**

On perusal of above provisions and the plaint, it reveals that the plaintiff has to mention the facts constituting the cause of action and when it arose. On careful perusal of plaint averments, the plaintiff has mentioned the cause of action.

18. The defendant mainly relied on the ground that, the will deed dated 05.09.2018 has been concocted by the plaintiff and hence there is no cause of action to file this suit. But



the plaintiff has mentioned the cause of action in para 10 of the plaint.

19. At this stage it is profitable to refer the Judgment passed by the Hon'ble Supreme Court of India in SLP No. 31844 of 2018 in between A. Akbar Ali Vs. K. Umar Khan and other, the Hon'ble Court pleased to observed that the provision of Order VII Rule 11 are not exhaustive and the court has the inherent power to see that frivolous or vexatious litigation are not allowed to consume time of the court. In the instant case the plaintiff has complied the provision of Order VII Rule 1 and Order VII Rule 11 (a) of Civil procedure Code.
20. At this stage it is profitable to refer the judgment passed by the Hon'ble High Court of Karnataka and the same has been reported in ILR 2010 Karnataka 903 (Ashok Kumar Chowan and Another V/s A.G. Anwar Ali and another) wherein the Hon'ble High Court of Karnataka pleased to held that "for rejecting the plaint the averments of the plaint alone has to be considered". This court has carefully gone through the averments made in the plaint and it discloses the cause of action in para 10 of the plaint.
21. At this stage it is to be noted that, every suit presupposes the existence of a cause of action against the defendant because if there is no cause of action, the plaint will have to be rejected.



22. Even though the expression cause of action has not been defined in the code, it may be described as a bundle of essential facts, which it is necessary for the plaintiff to prove before he can succeed, or which gives the plaintiff right to relief against the defendant. Thus cause of action means every fact, which it is necessary to establish to support a right or obtain a judgment. To put it differently, cause of action gives occasion for and form the foundation of the suit. The classic definition of the said expression is found in the case of Cook v.s Gill, wherein his Lordship Brett observed that the cause of action means every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the court.
23. Cause of action has nothing to do with the defence which may be set up by the defendant, nor does it depend upon the character of the relief prayed for by the plaintiff. It refers entirely to the grounds set forth in the plaint as the cause of action, or, in other words, to the media upon which the plaintiff asks the court to arrive at a conclusion in his favour. It must be antecedent to the institution of the suit and on the basis of that cause of action the suit must have been filed. Whether any particular facts constitute a cause of action has to be determined with reference to the facts of each case, taking into consideration the substance of the matter rather than the form of action.



24. It is also necessary for the plaintiffs to state specifically when such cause of action arose. This will enable the defendant as well as the court to ascertain from the plaint whether in fact and in law the cause of action as alleged by the plaintiff in the plaint did arise or not.
25. In the case of Kuldeep Sing v.s Ganpat Lal, the Hon'ble Supreme Court observed that, "the object underlying Order 7 rule 1(e), which requires that the plaint shall contain the particulars about the facts constituting the cause of action and when it arose, is to enable the court to find out whether the plaint discloses the cause of action because the plaint is liable to be rejected under order 7 rule 11 CPC, if it does not disclose the cause of action. The purpose behind the requirement that the plaint should indicate when the cause of action arose is to help the court in ascertaining whether the suit is not barred by limitation. Any error on the part of the plaintiff in indicating the date on which the cause of action arose would be of little consequence if the cause of action had arisen on the date on which the suit was filed and the suit was within limitation from the said date. The error in mentioning the date on which the cause of action had arisen in the plaint in such a case would not disentitle the plaintiff from seeking relief from the court in the suit".



26. In a suit for possession against the tenant on the ground of non-payment of rent, the period for which the tenant has been in default must be stated. So also in a suit on a promissory note on demand, it must be stated that in spite of the demand being made no payment was made by the promise-defendant. Similarly, in a suit for damages for breach of contract, it must be state that the contract was entered into between the plaintiff and the defendant and that the defendant had committed breach thereof. Likewise, in a suit for specific performance of an agreement the plaintiff must state that he was and in ready and willing to perform his part of the agreement. Where the plaintiff seeks relief in respect of several distinct claims or cause of action founded upon separate and distinct grounds, the plaintiff should state them as far as possible separately and distinctly.
27. But for deciding whether the facts averred by the plaintiff would or would not constitute cause of action, partly or wholly, the court must consider whether such facts constitute material, essential or integral part of the cause of action. If it is, it forms a cause of action, but if it is not, it does not form a cause of action. In determining the said question, the substance of the matter and not the form thereof has to be considered.



28. Finally “It is no doubt true that even if a small fraction of the cause of action arises within the jurisdiction of the court, the court would have territorial jurisdiction to entertain the suit. Nevertheless it must be a part of cause of action, nothing less than that”.
29. By applying the above principles and by applying the above judgments, in the present case the plaint discloses the cause of action and it constitute the cause of action, mere mentioning the fact that, there is no cause of action to file this suit is not sufficient to suffice the defence setup by the defendant. Not discloses the cause of action and no cause of action arose are different aspects.
30. The defendant herein further contended that the documents submitted by the plaintiff is not tenable and hence the suit of the plaintiff is liable to be rejected. In this regard the learned counsel for defendant has addressed arguments that the contents mentioned in the will deed are not clear and hence it is clearly shows that is concocted one, when the documents are not tenable under law the plaint has to be rejected and prays to allow the IA No. 1. In this regard this Court has perused the will deed dated 05.09.2018. At this premature stage this Court is of the opinion that, without conducting the trial this Court cannot not given findings on the documents submitted by the plaintiff, the court can given findings on the documents at the time of passing the



judgment. In the present case the trial has not yet commenced and both the parties have to face the trial, at this premature stage the contention urged by the defendant cannot be considered.

31. Based on the above observations, this Court is of the opinion that the defendant has not made out any grounds to allow the IA No. 4 as prayed for and hence this Court answers this point in the Negative.
32. **Point No. 2:** For the aforesaid discussions as mentioned in the point No. 1, this Court proceed to pass the following order:

ORDER

Interlocutory Application No. 4 filed by the Defendant under Order VII Rule 11 read with Section 151 of Code of Civil Procedure is hereby dismissed.

No order as to cost in view of the facts and circumstances of the case.

(Typed by me directly on the laptop and corrected by me, initialed by me and then pronounced by me in the Open Court on this 10th day of December, 2024.)

**Prl. Civil Judge & JMFC
Srirangapatna.**

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