KAMS080016512024

IN THE COURT OF PRINCIPAL SMALL CAUSES & SENIOR CIVIL JUDGE & M.A.C.T. AT MYSURU.

Presided Over by SRI AFTHAB.K

S.C./29/2024

Dated this the 29th day of June, 2026

Plaintiff/s:

Sri. Sanjay S.J. S/o. Jayappa K,
Age: 24 years, R/at No.192, Gokulam,
Mysuru-2.

(By Smt. Vishala P. Maradi, Advocate)

Vs.

Defendant/s :

Sri. Rahul M. Ghatke, S/o. Mahadeva Rao,
Age: 26 years, R/at #1143/F3, 3rd cross, 4th main,
Vidyaranyapuram, Mysuru-8.

(By Sri. G.K. Joshi S, Advocate)

* * * * *

ORDERS ON IA U/O 7 RULE 11(d) OF CPC

The IA-IV is filed by defendant seeking rejection of plaint on the ground of lack of jurisdiction and cause of action in the interest of justice and equity.

2. In support of the application the defendant has filed his affidavit contending that the plaintiff has instituted the suit for recovery of money. Further it is alleged by the plaintiff in the plaint that the defendant was running a chit fund business legally by procuring necessary license and plaintiff became member of the said chit fund. Further as per the Chit Fund Act 1982 this court has no jurisdiction to try the case. Further it is also alleged in the plaint that the cause action for institution of suit arose on 04.07.2023 and undertaking on 18.12.2023, hence the suit filed by the plaintiff is liable to be dismissed. Further no cause of action has arisen between the parties to institute the suit. Further plaintiff has not instituted the suit with clean hands and has suppressed the material facts. Further this court does not have jurisdiction to try the suit and there is no cause of action to try the suit. On these grounds, he prayed that the application be rejected.

3. Upon service of copy of IA-IV, the plaintiff filed his detailed objection contending that the application is neither maintainable under law nor facts and hence is liable to be dismissed *in limine*. Further the point that this court has no jurisdiction to try the suit is absolutely false and it is also false that there is no cause of action to institute the present suit. Further the defendant has filed the application by invoking wrong provisions as if the plaint does not disclose the cause of action. Further the defendant has to file the application under Order VII Rule 11(a) of CPC and not under Order VII Rule 11(d) of CPC, on this score alone the application is liable to be dismissed as not maintainable.

3.1 Further the facts alleged in the affidavit are false and has come up with this application with malafide intention to confuse and mislead the court. Further the averments in the plaint have been misrepresented as nowhere in the plaint the plaintiff has admitted that the defendant was running a chit fund business legally and had valid license, instead the contention of the plaintiff is that the defendant informed the plaintiff that he was running a chit fund business legally but the defendant has falsely alleged that the plaintiff had admitted that the defendant was running a chit fund business legally and had license from the competent authority. FUrther since plaintiff has not at all admitted that the defendant was running a chit fund business, the application is liable to be rejected. Further it is for the defendant to prove that he was running a chit fund business legally and by possessing valid licence. Further if the defendant produces the document to show that he was running a chit fund business and had valid license, the plaintiff would withdraw the suit. Furthermore the assertion in the application that the plaintiff has filed the suit without of cause of action is false and it is for the defendant to convince the court that there is no cause of action and jurisdiction to try the suit, as such without leading evidence, it is not fair on the part of the defendant to seek rejection of plaint. On these grounds, it is prayed that the application be rejected.

4. After careful perusal of the averments in affidavit accompanying the application, the following points arise for the consideration of this court are:

> ***1) Whether the applicant/defendant has made out sufficient grounds to reject the plaint ?***
>
> ***2) What order?***

5. Upon careful perusal of the plaint averments and after giving its anxious consideration to the arguments canvassed and authorities relied upon by the counsel on either side, this court answers the aforeraised points for consideration as under :

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

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

for the following reasons.

<u>REASONS</u>

10. **<u>POINT NO.1:</u>**

Before plunging into discussion on the merits of the application, it would be apt to note that the provision which the defendant seeks to invoke here is Order VII Rule 11(a) and (d) of Civil Procedure Code, and the grounds urged are as under:

a) firstly, there is no cause of action to file the suit

b) Secondly, the suit is barred in view of clear provisions of Chit Funds Act, 1982.

So, this court needs to analyze each of the said contentions and then conclude whether the plaint is liable to be rejected or not.

11. Now, regarding the first ground on which the defendant has sought rejection of plaint concerns the aspect of *cause of action*. In fact, it is the contention of the defendant that no cause of action has arisen in favor of the plaintiff to institute this suit. It must be understood that the plaint can be rejected only *if the plaint averments do not disclose a cause of action* and *not when the cause of action narrated, according to the defendant, is false*. With this aspect in mind when the records are perused, it is clear that plaintiff has devoted entire para 6 and 8 in his plaint to plead the facts revealing the cause of action.

12. It is necessary to note that cause of action is a bundle of facts that the plaintiff is required to prove in order to successfully maintain a suit and when the defendants move an application for rejection of plaint on the

ground that the plaint does not disclose a cause of action, the endeavor must be to demonstrate to the court that the averments in the plaint do not reveal any cause of action. In fact in ***Saleem Bhai & Ors. vs. State of Maharashtra and Others***, reported in ***(2003) 1 SCC 557***, the Hon'ble Apex Court has held as under:

> *"9. A perusal of Order VII Rule 11 CPC makes it clear that the relevant facts which need to be looked into for deciding an application thereunder are the averments in the plaint. The trial court can exercise the power under Order VII Rule 11 CPC at any stage of the suit — before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial. For the purposes of deciding an application under clauses (a) and (d) of Rule 11 of Order VII CPC, the averments in the plaint are germane; the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage, therefore, a direction to file the written statement without deciding the application under Order VII Rule 11 CPC cannot but be procedural irregularity touching the exercise of jurisdiction by the trial court……."*

Further the Hon'ble Apex Court in ***The Church of Christ Charitable Trust & Educational Charitable Society, represented by its Chairman Vs. M/s Ponniamman Educational Trust represented by its Chairperson/Managing Trustee*** *held as under:*

> *8) While scrutinizing the plaint averments, it is the bounden duty of the trial Court to ascertain* ***the materials for cause of action****. The cause of action is a bundle of facts which taken with the law applicable to them gives the plaintiff the right to relief against the defendant.* ***Every fact which is necessary for the plaintiff to prove to***

> ***enable him to get a decree should be set out in clear terms.*** *It is worthwhile to find out the meaning of the words "cause of action". A cause of action must include some act done by the defendant since in the absence of such an act no cause of action can possibly accrue.*

Further the Hon'ble Apex Court in ***A.B.C. Laminart Pvt. Ltd. & Anr. vs. A.P. Agencies, Salem (1989) 2 SCC 163,*** explained the meaning of *"cause of action"* as follows*:*

> *"12. A cause of action means every fact, which if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the court. In other words, it is a bundle of facts which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. It must include some act done by the defendant since in the absence of such an act no cause of action can possibly accrue. It is not limited to the actual infringement of the right sued on but includes all the material facts on which it is founded. It does not comprise evidence necessary to prove such facts, but every fact necessary for the plaintiff to prove to enable him to obtain a decree. Everything which if not proved would give the defendant a right to immediate judgment must be part of the cause of action. But it has no relation whatever to 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."*

The Hon'ble Apex Court in ***Bloom Dekor Ltd. vs. Subhash Himatlal Desai & Ors. (1994) 6 SCC 322,*** it is held as under*:*

> *"28. By "cause of action" it is meant every fact, which, if traversed, it would be necessary for the plaintiff to prove in order to support his*

right to a judgment of the Court, (Cooke v. Gill, 1873 LR 8 CP 107). In other words, a bundle of facts which it is necessary for the plaintiff to prove in order to succeed in the suit."

So it is clear that ***it is mandatory that in order to get relief, the plaintiff will have to aver something about the facts which influence them to approach the court. In other words, it is necessary for the plaintiff to aver the facts which are required to be proved in order to succeed in the suit*** and this principle is found in the ***obiter dicta*** of the Hon'ble Apex Court in ***The Church of Christ Charitable Trust & Educational Charitable Society, represented by its Chairman Vs. M/s Ponniamman Educational Trust represented by its Chairperson/Managing Trustee,.***

13. As already observed, the contention of the applicant/defendant is that there is no cause of action in favor of the plaintiff to institute the suit, but must be borne in mind that while considering an application for rejection of plaint, this court cannot look into the merits of the case that means to say, this court cannot analyze if the facts averred to disclose cause of action are true or not, instead all that this court is expected to analyze is whether the plaint discloses the cause of action on bare reading or not and if the cause of action is disclosed, then the suit cannot be rejected in exercise of Order VII Rule 11(a) of CPC. The view taken by this court is supported by the decisions rendered by the Hon'ble High Court of Karnataka :

a) ***Smt. Laxmamma vs Smt. Puttamma*** reported in ***HCR 2018 Kant. 826*** which is a case between wherein the Hon'ble High Court of Karnataka observed thus:

6. If that be the position and in that background if legal position is kept in view while considering the rejection of the plaint in exercise of the power under Order 7 Rule 11(a) and *(d) what was required to be done was to take note of the averments as made by the plaintiff and in that light if the same does not disclose the cause of action or was contrary to law, only in that circumstance rejection of the plaint can be made.*

b) ***Sri. K. Bhaskaran vs Smt. Ratnamma*** reported in ***HCR 2018 Kant. 205*** wherein the *obiter dicta* of the Hon'ble High Court can be ascertained from the perusal of the following excerpt:

11. On perusing the application filed under Order VII Rule 11 CPC it is seen that the defendants/respondents have sought for rejection of the plaint as there is no cause of action for the suit. Order VII Rule 11(a) CPC states that, plaint can be rejected when it does not disclose a cause of action. There is a subtle difference between there being no cause of action for the suit and plaint not disclosing cause of action. So the plaint can be rejected only if it does not disclose cause of action. It is well established view now that while deciding an application under Order VII Rule 11 CPC, only the averments made in the plaint shall be considered. Defence set up by the defendant shall not be considered at all. In fact, the two decisions cited by the appellant's counsel in the case of Kuldeep Singh Pathania (supra) and Church of Christ Charitable Trust and Educational Charitable Society (supra) lay down this principle.

c) ***Sri. Siddesh B.T. Umesh vs The Bruhat Bengaluru Mahanagara,*** reported in ***HCR 2021 Kant. 87*** wherein the *obiter dicta* of the

Hon'ble High Court can be ascertained from the perusal of the following excerpt:

> *12. Before considering the factual aspects of the case, this Court would like to make it clear that Order VII Rule 11 of CPC is a mere procedure. The Court while considering Order VII of CPC must give a meaningful reading to the plaint as to whether it is manifestly vexatious or meritless in the sense of not disclosing a clear right to sue. Under the said circumstances only the Court can exercise its powers. A plaint can be rejected only if it appears from the statement in the plaint to be barred by any law. Apart from the averments made in the plaint, the Court also can look into the documents filed with the plaint but nothing more. While considering the application filed under Order VII Rule 11 of CPC, the Court cannot consider the defence set up by the defendants in their written statement only to determine whether the plaint discloses any cause of action or not. The Court cannot look into the defence set up by the defendants in the written statement or the application filed by the defendants and it is only the facts pleaded in the plaint, which are to be taken into account.*

The essence of the decisions cited above is that all that the courts need to see while dealing with an application under Order VII Rule 11 of C.P.C. is whether the plaint discloses a cause of action or not, the defense that the cause of action pleaded by the plaintiff is false is a matter to be considered at trial. When such being the law, the fact that the para No.6 and 8 of the plaint are devoted for disclosing the cause of action, this court is not inclined to accept the contention of the applicant that the plaint does not disclose a cause of action.

14. Further, it is necessary to assert, even at the cost of repetition that the contention of the applicant that the cause of action shown in the plaint is false cannot be a ground to reject the plaint, as the court will have to accord an opportunity to the plaintiff to prove that the facts narrated to show the cause of action are true and if the plaintiff fails, the suit will fail. But in the facts at hand, where the cause of action is pleaded, the plaint cannot be rejected under Order VII rule 11(a) of Civil Procedure Code. Even this view taken by the court is supported by the decisions referred to supra.

15. This brings the discussion to the next ground on which the rejection of plaint is sought, which is that because the plaintiff has admitted in his plaint that the dispute arises out of a Chit transaction, the suit is barred by Chit Funds Act, 1982. Per contra the plaintiff in his objections has contended that the applicant/defendant has tried to misinterpret the plaint averments. In other words, it is the contention of the plaintiff nowhere in his plaint has he admitted that the defendant was doing the Chit fund Business legally and by procuring license.

16. It must be borne in mind that while dealing with an application for rejection of plaint, it is the averments in the plaint which are germane. Wherefore, keeping the contentions of the applicant and opponent in the mind, it would be worthwhile to revisit the plaint; and for better appreciation the relevant paragraphs of the plaint are verbatim reproduced hereunder:

> *"2. The plaintiff and defendant are friends and they are acquainted with each other since several years. By making use of such*

acquaintance and friendship, the defendant insisted the plaintiff to enroll as a subscriber to the chit fund which he was running as a Forman. He canvassed that he is running the chit fund business legally having the valid license from the competent authority.

3. It is submitted that by believing the words of the defendant, on the bonafide ground the plaintiff had enrolled as a member to 2 chit groups amounting ₹.2,00,000/- (Two Lakh only) payable for 24 months at ₹.3,250/- P.M. Accordingly, the plaintiff has paid or subscribed a sum of ₹.6,500/- P.M. in 2 chits.

4. The plaintiff has subscribed to ₹.6,500/- P.M. for 13 months. The plaintiff has made such payments through his bank namely Indian Overseas Bank in which the plaintiff has his S.B. Account, by online.

5. It is further submitted that before the expiry of 24 months, the defendant had stepped the chit funds activities without making the refund of the amount subscribed by the plaintiff, either towards the subscription amount of ₹.84,500/- or towards the interest by way of sodi. However, it was on 4-7-2023, the defendant gave a written undertaking admitting the receipt of ₹.84,500/-. He further agreed to make the refund on 2 installments. He agreed to pay a sum of ₹.30,000/- (Thirty Thousand only) on or before July 2023 and the balance in the month of September 2023. The defendant did not comply with his undertakings.

6. It is submitted that on the failure to comply with the said written undertaking, a legal notice dated 18-12-2023 was got issued to the

> *defendant both by RPAD and couriers to pay the above said amount ₹.84,500/- along with the interest at 24% P.A. by way of damages. The legal notice was deemed to be served on the defendant as it was returned as unclaimed on 27-12-2023 and courier served on him since not yet returned. The defendant neither complied with the notice nor replied for the same. Hence the suit...”*

Hence from the plain reading of the plaint it becomes clear that the transaction between the plaintiff and defendant is essentially a chit transaction.

17. Though there can be no denial of the fact that, in essence what the plaintiff has averred in the plaint is that the defendant had represented to the plaintiff that the defendant was running a licensed Chit fund Business which makes it obvious that the defendant has misconstrued the plaint averments and hence the averments in the affidavit filed in support of the application that the plaintiff had admitted that the defendant was running the Chit Fund Business legally and that the defendant had procured license for the same, is not wholly correct. Having observed so, as already observed, if the plaint averments are considered as a whole, it would become evident that, in essence, the money which the plaintiff is now seeking to recover by way of this suit is, the amount which he paid to the defendant towards premium of two chit schemes, to which the plaintiff had subscribed. Precisely, the plaintiff wants to recover the money which he paid to the defendant towards premium of two chit schemes. So it is debatable whether or not the plaintiff has admitted in his plaint that the defendant was running a Chit fund Business legally by procuring license, but there can be no denial of the fact that the plaintiff has stated in clear and unequivocal terms that the amount which he now seeks to recover was

paid by him to the defendant towards two chit schemes which the defendant had commenced. It is in this backdrop that this court needs to tread forward.

18. The reason why this tribunal has emphasized on the fact that he plaintiff has stated in clear and unequivocal terms that the amount which he now seeks to recover was paid by him to the defendant towards two chit schemes which the defendant had commenced would be better understood if Section 64 of Chit Funds Act, 1982 is perused and the same reads as under:

64. Disputes relating to chit business.—

(1)Notwithstanding anything contained in any other law for the time being in force, ***any dispute touching the management of chit business shall be referred by any of the parties to the dispute, to the Registrar for arbitration if each party thereto is one or the other of the following,*** *namely:—*

(a) a foreman, a prized subscriber or a non-prized subscriber, including a defaulting subscriber, past subscriber or a person claiming through a subscriber, or a deceased subscriber to a chit;

(b) a surety of a subscriber, past subscriber, or a deceased subscriber.

Explanation—For the purposes of this sub-section, a dispute touching the management of a chit business shall include,—

(i) a claim by or against a foreman for any debt or demand due to him from a subscriber, or due from him to a subscriber, past subscriber or the nominee, heir or legal

> ***representative of a deceased subscriber whether such debt or demand is admitted or not;***
>
> *(ii) a claim by a surety for any sum or demand due to him from the principal borrower in respect of a loan by a foreman and recovered from the surety owing to the default of the principal borrower, whether such sum or demand is admitted or not; and*
>
> *(iii) a refusal or failure by a subscriber, past subscriber or the nominee, heir or legal representative of a deceased subscriber to deliver possession to a foreman of land or any other asset resumed by him for breach of conditions of the assignment.*
>
> *(2) Where any question arises as to whether any matter referred to for the award of the Registrar is a dispute or not for the purposes of sub-section (1), the same shall be decided by the Registrar whose decision thereon shall be final.*
>
> *(3)* ***No civil court shall have jurisdiction to entertain any suit or other proceedings in respect of any dispute referred to in sub-section (1).***

Hence it is clear that *a claim against a foreman for any debt or demand due from him to a subscriber, whether such debt or demand is admitted or not* would be considered *a dispute touching the management of a chit business* and the same shall be referred *to the Registrar for arbitration by the parties* and most importantly *civil court shall not have jurisdiction to entertain any suit or other proceedings in respect of any dispute referred to in sub-section (1).* Since the words used is *shall,* the plaintiff is barred from agitating the dispute pertaining to the amount which he now seeks to recover was paid by him to the defendant towards two chit schemes which the defendant had commenced, before this Court and the Court has no jurisdiction to try the dispute.

19. For the foregoing reasons this court finds no hesitation in holding that the suit is barred under Section 64 (3) read with Section 64 (1) of Chit Funds Act. Hence this court finds no hesitation in holding that the applicant/defendant has proved that the suit of the plaintiff is barred by law for time being in force thereby attracting Order VII Rule 11(d) of CPC and accordingly ***the Point No.1 is answered in the affirmative.***

20. **<u>POINT No.2:</u>**

In view of the finding of this court on Point No.I, this court answers the point No.II as under, by passing the following:

<u>ORDER</u>

"IA No.IV U/O VII Rule 11 (d) of CPC filed by the Defendant is hereby allowed.

Consequently the plaintiff is rejected as being barred by law in view of Section 64 (3) read with Section 64 (1) of Chit Funds Act.

Parties to bear their own costs."

(Dictated to the stenographer, computerized by her, corrected and then pronounced by me in the open court, this the 29th day of June, 2026)

Digitally signed by AFTHAB K
Location: PRL. Judge, Court of Small Causes, Mysuru

(AFTHAB.K.)
Prl. Judge, Court of Small Causes
& MACT., Mysuru.