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**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL JUDGE
AND J.M.F.C AT HUNSUR**

Present: Smt.Anitha, B.A. (Law) L.L.B.,
Prl. Senior Civil Judge & JMFC.,
Hunsur.

Dated this the 24th day of March, 2026.

OS No.138/2025

Plaintiff: Smt.Neelajamma, W/o Late Kemapaiah,
D/o Rachaiah, Aged 64 years, R/at E.P.Bore
Village, Hunsur Town, Hunsur Taluk,
Mysuru District.

-Vs-

Defendants: 1. Sri.H.R.Shivanna, S/o Late Rachaiah
@ Rachappa, Aged 69 years,
2. Sri.Raju, S/o Late Rachaiah
@ Rachappa, Aged 45 years,
3. Sri.Premakumar, S/o Late Rachamma,
@ Rachappa, Aged 43 years,
4. Sri.Gajendra, S/o Late Rachamma,
Aged 40 years,
5. Smt.Jayamma, W/o Late Siddaraju,
S/o Late Rachaiah, Aged 51 years,
6. Sri.Mahesh, S/o Late Siddaraju,
Aged 22 years,
7. Sri.S.Jeevan, S/o Late Siddaraju,
Aged 19 years,
8. Smt.Sundramma, W/o Late Puttaraju,
S/o Late Rachaiah, Aged 52 years,

9. Smt.H.P.Shobha, S/o Late Puttaraju,
W/o Rajesh, Aged 30 years,
10. Sri.Rajesh.P., S/o Late Puttaraju,
Aged 28 years,
10. Sri.Anand.P., S/o Late Puttaraju,
Aged 25 years,

All are residing at Bannibeedi,
Hunsur Town, Mysuru District.

1.	Provision under which the application is filed	:	Under Order 7 Rule 11(a) and (d) R/w Section 151 of CPC
2.	Relief sought for	:	Rejection of plaint
3.	The date on which the application is filed	:	09.06.2025
4.	Number of the application	:	IA No.II
5.	The date on which the objection is filed by the opponents	:	07.08.2025
6.	The date on which the orders passed on the said application	:	25.03.2026

ORDERS PASSED ON IA NO.II

When the case was posted for steps, the learned counsel for defendants No.8 to 10 filed the present application under Order 7 Rule 11(a) and (d) R/w Section 151 of CPC to reject the plaint for want of cause of action and barred by law.

2. The application is supported with the affidavit of defendant No.10 wherein it is stated that, the plaintiff filed the suit for the relief of partition and separate possession. The plaintiff has made judicial admission that the parties have already partitioned the family properties under registered

partition deed dated 13.06.2024 and the RTC of the suit schedule properties are transferred to the respective names. The plaintiff has stated that, she had no knowledge about the averments of Partition Deed and she had only signed it. The partition deed entered between the parties as per instructions of the parties and it is written in their mother tongue and the advocate who has drafted the said partition deed has read out the same to the parties then it was registered. The plaintiff well aware about the contents of the said partition deed and only after agreeing the same she has signed it. Item No.2 of the suit schedule property is not the family property and it was the property granted to the 1st defendant by Government of Karnataka and as such it was not included as ancestral property. The TT fine has been paid by the 1st defendant out of his own income without taking any penny from the family income. The question of family properties in respect of item No.2 is meaningless. There is no cause of action in the plaint to file the suit and this court cannot proceed to try the suit. The plaintiff has voluntarily accepted her share and it was a registered document and there need not be any equity maintained. The parties who have entered into partition, some of them have received the cash and voluntarily withdrawn from their share. The plaintiff also received benefit from the family properties and upon her own will and wish three guntas was given to her. The plaintiff has withdrawn the company of her husband and presently she is staying in Hunsur by obtaining widow pension, but her husband is still alive. The plaintiff all

of sudden taken U turn and filed this suit which is not maintainable and same has to be rejected. Hence, prayed to reject the plaint for want of cause of action and prayed to allow the application.

3. Per contra learned counsel for the plaintiffs filed objection contending that, the application is not maintainable under law or on facts. It is contended that, without making her to know the contents of partition deed her signature was taken and the document was registered on 13.06.2024 and without her consent only an extent of 3 guntas was allotted to her share. It is also contended that, when the plaintiff applied for sketch pertaining to her share she came to know that only 3 guntas has been allotted to her share and at that time she has questioned it with the defendants and they have given evasive answer which made her to file the suit. It is further contended that, suit schedule item No.2 property originally belong to government which was granted to the 1st defendant through LND (K) A 542/1994-95 and at that time the 1st defendant paid the upset price from the income derived from item No.1 property. As such all the suit schedule properties are ancestral and joint family properties. Since, the defendants have refused to grant equal share this suit has been filed and prior to filing the suit the plaintiff issued legal notice on 11.03.2025 which has been not replied. As such she has filed the suit and there is sufficient cause of action for her to file the suit and prayed to dismiss the application with costs.

4. Thereafter, heard arguments addressed by learned counsels for defendants No.1, 5 to 11 and the plaintiff and perused the case papers. After hearing the arguments and on perusal of the case papers, the points that arise for consideration are as hereunder:

POINTS

1. Whether defendants No.1, 5 to 11 have made out sufficient grounds to reject the plaint under Order 7 Rule 11(a) and (d) of CPC?
2. What order?
5. The findings on the above points are as hereunder:

Point No.1: In the Negative

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

REASONS

6. **Point No.1:** The plaintiff has filed this suit against the defendants seeking the relief of partition and separate possession of her 1/5th share over the suit schedule properties and she has also sought for cancellation that the registered partition deed dated 05.07.2024 registered before Sub-Registrar, Hunsur. The plaintiff alleged that, she is the daughter of one Rachaiah and defendants No. 1 and 2 are her brothers, defendants No.3 and 4 are the children of her deceased sister Rachamma and defendant No.5 and 8 are her sisters, defendants No.6 and 7 are the children of 5th defendant and defendants No.9 to 11 are the children of 8th defendant.

7. As per the plaintiff, the suit schedule properties are the ancestral and joint family properties of herself and the defendants. It is further alleged that, suit schedule item No.2 property was granted to the 1st defendant and he had paid upset price from the income derived from suit schedule item No.1 property. The plaintiff specifically alleged that, in respect of suit schedule item No.1 property there was a registered partition between herself and the defendants dated 13.05.2024. The plaintiff is illiterate and she knows only to put her signature and as such she was unable to read the contents of partition deed. Instead of giving her equal share she was allotted with only 3 guntas of land in suit schedule item No.1 property. She has applied for survey sketch of the property allotted to her share and then only she came to know that she was allotted only 3 guntas and upon coming to know about the same she has questioned the defendants and they have refused to allot her share. She has also issued legal notice on 11.03.2025 and inspite of it the defendants have not chosen to issue any reply.

8. Defendants No.1, 5 to 11 have filed their written-statement contending that the suit is mischievous. It is the specific contention of the defendants that, the plaintiff had every knowledge about the contents of above referred partition deed and only after reading same she has put her signature and the document was came to be registered. It is the specific contention of the defendants that, with the consent of the plaintiff the partition deed was entered and registered. After

filing the written-statement defendants No.1, 5 to 11 came up with this application under Order 7 Rule 11(a) and (d) of CPC for rejection of plaint for want of cause of action and barred by law. It is pertinent to note that nowhere in the affidavit filed in support to the application defendants No.1, 5 to 11 stated that, under which law the suit is barred.

9. In support of the case the plaintiff produced the original partition deed dated 13.06.2024 which is admittedly a registered partition deed. It is an admitted fact that the plaintiff has put her signature to the said document. As per the recitals of this partition deed "J" schedule property has been allotted to the share of the plaintiff. As per "J" schedule an extent of 3 guntas out of 2 acre 33 guntas in Sy.No.192/2 has been allotted to the share of the plaintiff. Sy.No.192/2 is suit schedule item No.1 property. Admittedly, in the partition deed some parties have taken share in the properties and some have relinquished their right by receiving amount. The plaintiff produced RTC of Sy.No.192/2. It goes to show that, the partition deed has been duly acted upon. The plaintiff also produced the mutation extracts. As per the partition deed the name of the plaintiff has been entered in respect of Sy.No.192/6 measuring 3 guntas.

10. The plaintiff also produced the copy of legal notice. On the other-hand learned counsel for defendants No.1, 5 to 11 have produced the GPA, the copy of partition deed and the RTC. Admittedly, the partition deed has been acted upon. But it is the specific case of the plaintiff that, she is an illiterate

and she can only put her signature and without knowing the contents of the documents she has signed it. On the other-hand the contesting defendants have specifically contended that, with full knowledge the plaintiff put her signature. These facts needs to be determined after complete trial. It is pertinent to note that, the cause of action is bundle of facts and by only reading one sentence the court cannot gather cause of action. For the purpose of knowing the cause of action the entire plaint needs to be considered.

11. At the time of addressing the arguments learned counsel for defendants No.1, 5 to 11 has placed reliance on the decisions reported in:

(1977) 4 SCC 467

Between: T.Arivandandan V/s T.V.Satyapal and another.
Wherein Hon'ble Supreme Court of India has held as hereunder:

If on a meaningful not formal reading of the plaint it is manifestly vexatious, and meritless in the sense of not disclosing a clear right to sue, he should exercise his power under Order 7 Rule 11 of CPC, taking care to see that the ground mentioned therein is fulfilled. And if clear drafting has created the illusion of a cause of action, nip it is the bud at the first hearing by examining the party searchingly under Order 10 CPC. An activist judge is the answer to irresponsible law suits. The trial courts would insist imperatively on examining the party at the first hearing so that bogus litigation can be shot down at the earliest stage. The Penal Code is also resourceful enough to meet such men and must be triggered against them.

ILR 2008 KAR 3993

Between: Hanumappa and o thers V/s Chikkanaiah and
others.

Wherein Hon'ble High Court of Karnataka has held as
hereunder:

For the purpose of deciding the application under Order 7 Rule 11(a) and (d) averments in the plaint are material. And the plea taken if any, by the defendants in the written-statement would be wholly irrelevant at that stage of the proceedings. To reject the plaint on the ground that, it does not disclose a cause of action, the trial court should look at the plaint and nothing else. It is now settled position of law that, clever drafting creating illusions of cause of action, are not permitted in law and a clear right to sue, should be shown in the plaint. A reading of the plaint shows that, there is no real cause of action and what has been set out in the plaint is nothing but illusory.

AIR 2019 Supreme Court 1430

Between: Raghwendra Sharan Singh V/s Ram prasan singh
(Dead) by Lrs

Wherein Hon'ble Supreme Court of India as held as
hereunder:

Rejection of plaint, ground of limitation – suit for declaration that, Gift deed executed infavour of defendant is sham transactions and not binding. Filed after more than 22 years of execution of registered Gift deed. Plaintiffs not praying for any declaration to set aside gift deed as in that case suit would be clearly barred by limitation under article 59 of Limitation Act.

Civil Revision Petition No.588 of 2022

Between: Sri.N.Krishnamurthy and others V/s

Sri.Narayarao.M.S. and another.

Wherein Hon'ble High Court of Karnataka has held as hereunder:

Seeking rejection of the plaint on the ground that, the plaint does not disclose the cause of action and that there is defect in the suit and therefore the suit is liable to be dismissed at the threshold. The application filed by defendant No.2 under Order 7 rule 11(a) of CPC could not have been rejected by the trial court. The purpose behind the provision in order 7 rule 11 is to weed out unnecessary, frivolous litigation and save precious judicial time for deserving cases.

12. In the present case the plaintiff has also included suit schedule item No.2 property which is situated in Doddahunsur Village measuring 2 acres 30 guntas in Sy.No.196/P27. As per the plaintiff the suit schedule item No.2 property has been granted to the 1st defendant and he has acquired it from the income of item No.1 property. In the affidavit filed in support of the present application defendants No.1, 5 to 11 have specifically contended that, suit schedule item No.2 property is the self-acquired property of the 1st defendant. These facts needs to be determined after complete trial and it requires oral as well as documentary evidence. It is the settled principles of law that, an application under Order 7 Rule 11 of CPC cannot be allowed in part. The plaintiff has included both the properties claiming equal partition.

Admittedly, the registered partition deed does not disclose about equal partition between the parties. These facts have to be adjudicated after getting oral and documentary evidence. For the purpose of deciding the same trial is required. The allegations made by the plaintiff that without making her to know about allotting only 3 guntas to her share, the registered partition deed was entered. This fact also requires complete trial. On perusal of entire plaint averments this court comes to the conclusion that, the plaintiff has made out cause of action to file the suit. Furthermore, the partition deed is dated 13.05.2024 and this suit came to be filed on 17.04.2025 and the suit is not barred by law. The principles laid down in the aforesaid decisions are not aptly applicable to the facts of the case on hand. Accordingly this court comes to the conclusion that, defendants No.1, 5 to 11 failed to prove that the plaint lacks cause of action and barred by law. Accordingly, point No.1 is answered in the Negative.

13. **Point No.2:** In view of the reasons discussed above, this court proceeds to pass the following:

ORDER

IA No.II filed by defendants No.1, 5 to 11 under Order 7 Rule 11(a) and (d) R/w Section 151 of CPC is hereby rejected with costs of Rs.300/-.

(Dictated to the Stenographer directly on the computer, same is corrected and pronounced by me in the open court on this the 24th day of March, 2026.)

(Anitha)

Prl.Senior Civil Judge and JMFC.,
Hunsur.