

KAMS310005982017



IN THE COURT OF I ADDL. CIVIL JUDGE & JMFC.,

HUNSUR

:PRESENT:

**SMT. NAMRATA S HOSMATH, B.A., LL.B.,
I ADDL. CIVIL JUDGE & JMFC,
HUNSUR.**

DATED THIS THE 28TH DAY OF APRIL, 2026

O.S.No.198/2017

<u>PLAINTIFFS:</u>	R. Ramesh S/o Late. Ramarao, Aged about 76 years R/at No.446, 12th Main, 24th Cross, 7th Sector, HSR Layout, Bangalore-560102, Presently Camped at Hunsur. (Rep., by Sri. C.R.R., Advocate)
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// Vs //

<u>DEFENDANTS:</u>	Mr. M.P. Nagaraj S/o M.G. Prakash, Aged about 43 years, R/at Gundurao Compound, Brahmins Valley, Madikerei, Kodagu District. (Rep., by Sri. M.R.L., Advocate)
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PARTIES TO I.A. NO.XXI

APPLICANT	:	M.P. Nagaraju defendant
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V/s

OPPONENT	:	R. Ramesh plaintiff
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i	Provision under which the application is filed	U/o VII Rule 11(a) and (d) of CPC.,
ii	Relief Sought for	Rejection of plaint
iii	The date on which the application is filed	29.10.2024
iv	Number of the application	XXI
v	The date on which the objection is filed by opponent	11.11.2024
vi	The date on which the order was passed on the said application	27.04.2026

ORDERS ON I.A. NO.XXI

Defendant has filed the present interlocutory application, numbered I.A. No. XXI, under Order VII, Rule 11(a) and (d) of the Code of Civil Procedure, seeking rejection of the plaint on the ground that the suit is not maintainable.

2. In the affidavit filed in support of the application, the defendant has contended that, the plaintiff has instituted

a false suit for permanent injunction by suppressing material facts and approaching this Court with unclean hands. It is further alleged that, the defendant is the absolute owner of the suit schedule properties. It is asserted that, the plaintiff cannot file a suit for permanent injunction against the true owner. It is alleged that, the plaintiff suit is not maintainable and as he has filed the suit against the true owner, the suit does not disclose the cause of action. Hence, it is submitted that, the plaintiff has filed a false suit without any specific claim. The defendant further submits that, no prejudice would be caused to the plaintiff if the application is allowed, whereas the defendant would suffer grave injustice if the application is dismissed. Accordingly, the defendant prays for rejection of the plaint.

3. Per contra, the plaintiff has filed detailed objections opposing the application. It is contended that, the application is neither maintainable in law nor on facts and, therefore, deserves to be dismissed at the threshold. It is alleged that, the defendant has filed this application to reject the plaint, under order 7 Rule 11(a) and (d), which involves mixed question of law and fact the same can be decided after trial. It is stated that, the application is filed at a belated stage and is intended to protract the proceedings. On these grounds, the plaintiff prays for dismissal of the application.

4. Heard and perused the materials available on record.

5. The points that arise for consideration of this Court are:-

1) Whether the plaint is liable to be rejected under Order VII Rule 11(a) and (d) of CPC?

2) What order?

6. My findings on the above points are as under:-

Point No.1 : In the Negative

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

REASONS

7. **POINT NO.1:-** The plaintiff has instituted the suit seeking relief of declaration and permanent injunction. The present application has been filed by defendant when the matter was posted for hearing on interlocutory applications.

8. At this juncture, it is pertinent to note that, for invoking the provisions of Order VII, Rule 11 of the CPC, the Court is required to examine only the averments made in the plaint. The defence raised by the defendant, whether in the written statement or otherwise, is irrelevant for this purpose. The Court must presume the facts stated in the plaint to be

true and determine whether the suit is barred by any law on the face of the plaint itself.

9. In the instant case, it is pleaded by the plaintiff has instituted the present suit for declaration and permanent injunction. The defendant is the son-in-law of plaintiff, the plaintiff asserts that, the suit schedule properties are purchased by him. However, at the time of execution sale deeds due to certain circumstances the sale deeds were registered in the name of defendant. It is further asserted that, the entire sale consideration was paid by the plaintiff and sale agreement was entered in his name. It is alleged that, the defendant after the execution of the sale deed has shown hostile attitude and is continuously interfering into the possession of the plaintiff over the suit schedule property.

10. The defendant has firstly sought to reject the plaint under Order VII, Rule 11(a) of the CPC, which specifically empowers this Court to reject the plaint only in cases of non-disclosure of a cause of action. A distinction has to be made between the absence of a cause of action and non-disclosure of a cause of action. It is only the non-disclosure of a cause of action that empowers the Court to reject the plaint. If the plaint discloses a cause of action but the plaintiff is not entitled to the relief claimed, this Court is not empowered to reject the plaint at the threshold, such issues are required to be decided through a full-fledged trial. This contention is

supported by the decision of the Hon'ble Apex Court in in ***State of Orissa v. Klockner and Co., (1996) 8 SCC 377***. On perusal of the averments in the plaint, it is clear that the plaint discloses a cause of action.

11. Secondly, the defendant has sought rejection of the plaint on the ground that the plaintiff has filed permanent injunction suit against the true owner hence the suit is not maintainable. However, there is rival contentions with regard to the ownership of the suit schedule property. Further, the plaintiff had sought for amendment under 6 Rule 17 of CPC, to incorporate declaration relief and to add certain paragraphs in the plaint. The said application is allowed by this court after detailed consideration. Accordingly, presently the plaintiff has sought for declaratory relief, hence, the contentions raised by the defendant in the present application is not maintainable.

12. The defendant in support of his contention has relied upon certain decision; Anathula Sudhakar Vs Buchi Reddy, Padhiyar Prahladi Chenaji Vs Maniben Jagmalbhal and others, Premji Ratansey Shah and others Vs Union of India and others. With due respect to the citations relied on by the defendant, these decisions are application in a suit for permanent injunction, when there is a cloud raised over the title. However, in the present case, the plaintiff has incorporated declaratory relief. Hence, the citations relied by the defendant are not application in the case on hand.

13. The plaint, taken as a whole and at face value, do not indicate that the suit is barred by any law. It is settled that if, on the face of the plaint, it is shown that the suit is barred by any provision of law or fails to disclose a cause of action, an application under Order VII, Rule 11 CPC can be entertained. However, such a conclusion must arise solely from the averments in the plaint. For this purpose, there can be no addition to or subtraction from the contents of the plaint, nor can the defence be considered. In all other situations, such claims must necessarily be adjudicated during the course of a trial.

14. It is settled principle of law that, rejection of plaint is drastic power and must be exercised sparingly and only in cases where the conditions prescribed under VII Rule 11 are strictly satisfied. In the present case, this court is of the opinion that, the plaint does disclose a cause of action, the defect pointed out by defendant has been changed by way of amendment, and the suit is not barred by any law. For the aforementioned reasons, the plaint cannot be rejected on the ground that suit is barred any law nor on the ground of non-disclosure of cause of action based solely on the averments contained therein. Accordingly, ***Point No. 1 is answered in the Negative.***

15. **Point No.2:** In view of the foregoing discussions and findings on point No.1, this court proceeds to pass the following;

ORDER

The application in I.A.No. XXI filed by the defendant under Order VII Rule 11(a) and (d) of CPC., is hereby dismissed with costs.

(Dictated to the Stenographer Grade-III, directly on computer, typed by her, corrected, signed and then pronounced by me in the open Court on this the 28th day of April, 2026)

(NAMRATA S HOSMATH)
I Addl. Civil Judge & JMFC.,
Hunsur.