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**IN THE COURT OF THE HONOURABLE ADDITIONAL CIVIL
JUDGE & JMFC, AT KRISHNARAJANAGAR.**

**PRESENT: SMT. ASRINA.,B.A, LLB.
ADDL. CIVIL JUDGE AND JMFC, KRISHNARAJANAGAR.**

DATED THIS 15TH DAY OF JANUARY, 2025
O.S.No.156/2017

BETWEEN

PLAINTIFFS	<p>1. Shri.Mahadevanayaka, S/o Late Boralinganayaka, Aged: 48 years,</p> <p>2. Shri.Rajanayaka, S/o Late Boralinganayaka, Dead by LR's</p> <p>2(a). Smt.Lakshamma, W/o Late Rajanayaka, Aged: 57 years,</p> <p>2(b) Shri.Swamynayaka, S/o Late Rajanayaka, Aged: 42 years,</p> <p>2(c) Smt.Roopa, D/o Late Rajanayaka, Aged: 35 years, Both are R/at Ward No.22, Madhuvana Village, K.R.Nagara Town, Mysuru District.</p> <p>(By Sri.T.G. Advocate)</p>
DEFENDANT	Shri Javarayanayaka,

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	<p>S/o Manchanayaka, Aged: 67 years. R/at Ward No.22, Madhuvana Village, K.R.Nagara Town, Mysuru District.</p> <p>(By Sri.M.K. Advocate)</p>
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IA NO.15**BETWEEN**

APPLICANT/ DEFENDANT	Shri. Mahadeva naika
OPPONENT/ PLAINTIFF	Shri.Manchanaika

Provision of law	Order 7 Rule 11 of CPC.
Relief sought in the application	For rejection of plaint.
Date of filing the application	17/12/2024.
Date of filing the objection to the application	06/01/2025.
Date of order	15/01/2025.

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(SMT. ASRINA)
ADDL. CIVIL JUDGE & JMFC.,
KRISHNARAJANAGAR.

ORDERS ON IA.NO.15 FILED BY THE DEFENDANT UNDER
ORDER 7 RULE 11 OF CPC

1. Plaintiffs have filed the present suit for the relief of recovery of possession of the plaint 'B' schedule property as against the defendant.

2. When the above case was at the stage of defendant side evidence, the defendant has filed the instant application praying to reject the plaint on the ground of dissimilarity in the extent of the suit property as mentioned in the plaint with that of Ex.P-1 and Ex.P-2 sale deeds.

3. In the memorandum of facts accompanying the IA.No.15 it is stated that as per the Two sale deeds relied on by the plaintiffs, the extent of the property purchased is East-West 6.5 yards and 7.5 yards all in total only 42 feets of land was purchased. But, the plaintiffs have filed the present suit to the greater extent of 46 feets of land. With an intention to grab the property of the defendant, the plaintiffs have filed this false suit by showing greater extent of property in the plaint schedule. Therefore, it is stated that in view of the same, the plaintiff has no legal right to continue this suit. It is stated that since the plaintiff has no legal right to continue this suit, the plaint needs to be rejected. On the

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above grounds the defendant has prayed to reject the plaint by allowing the application.

4. The plaintiffs have seriously opposed the application by filing his objections. The plaintiffs have resisted the application by contending that the application filed by the defendant is not maintainable either under the law or on facts. The contents of the memorandum of facts accompanying the application are false, irrelevant and baseless. It is contended that if at all any contradiction is found in the extent of the suit property as pointed out by the defendant, the same needs to be decided by holding the trial. Hence, solely on the ground that there exist dissimilarity in the extent of the suit property with that of its sale deeds, the plaint cannot be rejected. Therefore, the plaintiffs have expressed their strong objections to reject the plaint. Hence with the above contentions the plaintiffs have sought for dismissal of the application.

5. Heard arguments from both the side. Perused the records. After going through the application along with affidavit, objection statement and the relevant documents placed on record, the following points arises for my consideration:

Point No.1: Whether the plaint is liable to be rejected on the ground of discrepancies found in the extent of the suit property with that of Ex.P-1 and Ex.P-2 sale deeds?

Point No.2: What order?

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6. My answers to the above points are as hereunder:

Point No.1: In the Negative.

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

REASONS

7. POINT NO.1: Plaintiffs have filed the present suit for the relief of recovery of possession of the plaint 'B' schedule property as against the defendant.

8. The ground on which the defendant has sought for the rejection of the plaint is that since in the Ex.P-1 and Ex.P-2 sale deeds the extent of property purchased is only 42 feet and since the plaintiff has filed this suit in respect of greater extent of 46 feet of land, the plaintiff has no right to continue the suit. Hence, in view of the same the defendant has sought for rejection of plaint.

9. It is significant to note here that only on the basis of the contradiction that allegedly exist in the extent of the suit property in Ex.P-1 and Ex.P-2 sale deeds and the schedule of the plaint, the defendant is seeking the rejection of plaint. But, a mere dissimilarities or contradiction that exist in the extent of the suit property in the pleadings and documentary evidence placed on record by the plaintiff is not a ground to reject the plaint under Order 7 rule 11 of C.P.C. The provisions of Order 7 rule 11 of C.P.C does not states that the plaint can be rejected if any dissimilarities or contradiction is found in the pleadings or the

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documentary evidence placed on record by the plaintiffs. Hence, such being the case the defendant cannot invoke the provisions of Order 7 rule 11 of C.P.C to the case on hand. Moreover, the dissimilarities and contradiction pointed out by the defendant in the extent of the suit property is a matter of appreciation of evidence after the conclusion of the trial. But, the trial of this case is yet to be concluded. Therefore, I conclude that a mere dissimilarities or contradiction that allegedly exist in the extent of the suit property is not a ground to reject the plaint under Order 7 rule 11 of C.P.C.

10. It is a settled preposition of law that in order to decide the application for rejection of plaint the court has to only look into the plaint averments and the averments made by the defendants in their written statement and the averments made by the defendants in the application for rejection of plaint is wholly irrelevant. This view of this court receives support from the decision of the Hon'ble Apex Court reported in **(2004) 3 SCC 137 in the case of Sopan Sukhdeo Sable Vs. Charity Commissioner and another decision reported in (2016)14 SCC 275 in the case of R.K.Roja Vs. U.S.Rayudu and another.** I have carefully gone through the averments made in the plaint and also the documents relied on by the plaintiff. The plaint averments as well as the documents relied on by the plaintiff does not makes out any ground for rejection of plaint as mentioned in order 7 rule 11(a) to (d) of C.P.C. Therefore, in view of the same, the contention taken by the defendant in his written statement and in the

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I.A.No.15 cannot be considered. Therefore, such being the case this court cannot reject the plaint by solely relying on the assertion made by the defendant in the instant application. No grounds are made out by the defendant to reject the plaint. I do not find any merits in the application. After taking several adjournments to cross examine the plaintiff as well as to lead his evidence, the defendant has come up with the present application. Thereby the defendant has abused the process of law. The present application being devoid of merits, the same fails and the same has to be dismissed by the imposing costs. Accordingly, for what has been discussed above **I answer point No.1 in the Negative.**

11. POINT NO.2: In view of my foregoing discussions on point No.1, I proceed to pass the following:

ORDER

IA.No.15 filed by the defendant Under Order 7
rule 11 of CPC is hereby dismissed with costs of
Rs.500/-.

(Dictated to the Typist directly on computer, typed by her, and the transcript revised and corrected by me and then pronounced in the open court on this **15th day of January-2025**)

**(SMT. ASRINA)
ADDL. CIVIL JUDGE & JMFC.,
KRISHNARAJANAGAR.**