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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 25TH DAY OF JUNE, 2025
O.S.No.360/2021

BETWEEN

PLAINTIFFS	<ol style="list-style-type: none">1. Shri.Deepu K.S S/o Shivanna Aged: 32 years.2. Smt.Vishalakshi W/o Shivanna Aged: 48 years.3. Shri.Sudarshan K.S S/o Shivanna Aged 28 years. <p>All are R/at: Kalammana Koppalu Village Saligrama Hobli, K.R.Nagar Taluk, Mysuru District.</p> <p>(By Sri.B.K.N Adv)</p>
DEFENDANTS	<ol style="list-style-type: none">1. Smt.Tayamma W/o Late.Krishnegowda Aged:48 years

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	<p>2. Smt.Tanuja W/o Madhu Aged: 28 years</p> <p>3. Smt.Abhilasha W/o Sudhakara Aged: 37 years</p> <p>4. Shri.Sudhakara, S/o Goravaiah Aged: 37 years.</p> <p>All are R/at: Kalammana Koppalu Village Saligrama Hobli, K.R.Nagar Taluk, Mysuru District.</p> <p>(Defendants No.1 to 4 By Shri.Mahadeva and Shri.M.R.Advs)</p>
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IA NO.3**BETWEEN**

APPLICANT/ DEFENDANTS	Shri.Thayamma and others
OPPONENTS/ PLAINTIFFS	Shri.Deepu K.S and others.

Provision of law	Order 7 Rule 11(a) & (d) R/w Sec.151 of CPC.
Relief sought in the application	For rejection of plaint.
Date of filing the application	17/01/2023.

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Date of filing the objection to the application	19/04/2023.
Date of order	25/06/2025.

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

ORDERS ON IA.NO.3 FILED BY THE DEFENDANTS UNDER
ORDER 7 RULE 11(a) & (d) R/W SEC.151 OF CPC

1. Plaintiffs have filed the present suit for the relief of perpetual injunction as against the defendants.

2. When the above case was at the stage of filing list of witnesses and documents, the defendants have filed the instant application praying to reject the plaint.

3. In the affidavit accompanying the IA.No.3 the defendant No.1 has adopted the contents of the written statement as a part and parcel of her affidavit. It is averred that the plaintiffs have filed the above suit for the relief of perpetual injunction. It is averred that the suit property is a joint family property of the plaintiffs and the

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defendants and the same was jointly granted in favour of father of the plaintiff No.1 namely Mr.Shivanna and husband of the defendant No.1 namely Mr.Krishnegowda. It is averred that the suit property being a joint family property of parties to this suit, both the parties to this suit are the co-owners of the suit property. It is averred that even the defendants have also filed a partition suit in respect of the present suit property along with other non-suit properties in O.S.No.129/2018 as against the father of the plaintiff No.1 namely Mr.Shivannegowda and others. It is averred that the suit property being the joint family property of parties to this suit, the plaintiffs and the defendants are the co-owners in joint possession and enjoyment of the suit property. Therefore, it is averred that since the defendants are also the co-owners of the suit property, the present suit for bare injunction as against the co-owners is not maintainable. It is averred that since the defendants have seriously disputed the title of the plaintiffs over the suit property, the present suit for bare injunction without seeking the relief of declaration of title is not maintainable. It is averred that the plaintiffs have no cause of action to file the present suit and that the plaint does not disclose accrual of cause of action. Hence, on the above grounds the defendants have prayed to reject the plaint by allowing the application.

4. The plaintiffs have opposed the application by filing their objection. The plaintiffs have resisted the application by

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contending that the application filed by the defendant is not maintainable either under the law or on facts. The contents of the affidavit are false, irrelevant and baseless. It is contended that the plaintiffs have acquired the right, title and interest over the suit property by virtue of the registered release dated 22/02/2018 and therefore, there is no cloud on their title. Hence, there is no necessity to seek the declaration of their title. It is contended that the plaint discloses the facts constituting cause of action to file the above suit. Such being the case, the question of rejecting the plaint does not arise at all. It is further contended that the suit in O.S.No.129/2018 is pending for disposal and unless the court gives finding regarding co-ownership of the defendants over the suit property, the plaint of the present suit cannot be rejected. It is contended that in order to defeat the legitimate rights of the plaintiffs over the suit property, the defendants have filed the present false application. Therefore the plaintiffs have contended that the present application is not maintainable and the same needs to be rejected. It is contended that the defendants have filed the instant application to further drag on the above case. Hence with the above contentions the plaintiffs have sought for dismissal of the application with costs.

5. Heard arguments from both the side. Perused the records. After going through the application along with affidavit, objection

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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?

Point No.2: What order?

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 perpetual injunction as against the defendants.

8. On three grounds the defendants have sought for rejection of plaint. The first ground on which the defendants have sought for the rejection of the plaint is that the suit property being the joint family property of the parties to this suit, the plaintiffs and the defendants are the co-owners in joint possession of the suit property and therefore, since the parties to this suit are the co-owners of the suit property, the relief of injunction cannot be granted as against the defendants. Hence, on the above ground the defendants have sought for rejection of plaint.

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9. During the course of arguments on instant application, learned counsels for the plaintiffs and the defendants have produced the certified copy of the plaint and written statement filed in O.S.No.129/2018 and the same projects that the defendants No.1 to 3 herein have filed the said suit in O.S.No.129/2018 for partition in respect of the present suit property as well as non-suit properties by contending that they are the co-owners of the present suit property. The certified copy of the written statement filed by the father of the plaintiff No.1 namely Mr.Shivannegowda in O.S.No.129/2018 projects that he has denied the co-ownership of the present defendants over the present suit property and thereby, father of the plaintiff No.1 namely Mr.Shivannegowda has contended that the present suit property is his absolute and self acquire property and he has given the suit property in favour of the present plaintiffs by executing the release deed dated 22/02/2018 in their favour.

10. What can be borne out of the records is that, initially the defendants No.1 to 3 herein have filed the suit in O.S.No.129/2018 for partition in respect of the present suit property as well as other non-suit properties. Subsequently, on the strength of the release deed dated 22/02/2018 executed by the defendant No.4 of O.S.No.129/2018 in their favour, the plaintiffs have filed the present suit as against the defendants. In one hand the defendants are asserting that they are the co-owners

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of the suit property and therefore, decree for injunction cannot be granted against the co-owners. On the other hand, the plaintiffs are denying the said claim of the defendants and thereby the plaintiffs are denying the co-ownership of the defendants over the suit property. Whether the suit property is a ancestral or joint family property of parties to this suit or not and whether the parties to this suit are co-owners of the suit property or not, the same has to be decided by the competent court before whom a comprehensive suit for partition in O.S.No.129/2018 is pending. The present suit one being injunction simplicitor, question of co-ownership of the plaintiffs and the defendants over the suit property cannot be adjudicated in this suit. Therefore, until the final adjudication of comprehensive suit for partition in O.S.No.129/2018, this court cannot reject the plaint by concluding that the parties to this suit are the co-owners of the suit property. Hence, the plaint cannot be rejected on the above ground.

11. The second ground on which the defendants have sought for the rejection of the plaint is that since the plaintiffs have not sought for the declaration of their title over the suit property, the present suit for bare injunction is not maintainable. In this suit the defendants are not entirely denying the title of the plaintiffs and rather, according to the defendants, even the plaintiffs are also the co-owners of the suit property. Hence, partial denial of

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title by the defendants does not create cloud on title of the plaintiff. Therefore, even on the above ground the plaint cannot be rejected.

12. One more ground on which the defendants have sought for rejection of plaint is that the plaint does not disclose the facts constituting accrual of cause of action to file the above suit. Hence the defendants have sought for rejection of plaint by contending that no cause of action arose to the plaintiffs to file the present suit. I have carefully gone through the averments made in the plaint. The averments made at para No.7 of the plaint disclose the facts constituting accrual of cause of action to the plaintiffs to file this suit. Therefore, the averments made in the plaint clearly disclose the accrual of cause of action to file the present suit.

13. It is a settled proposition 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.** As held above,

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the averments made in the plaint clearly discloses accrual of cause of action to file the present suit. The contention taken by the defendants in their written statement and in the I.A.No.3 cannot be considered. Therefore, such being the case this court cannot reject the plaint by solely relying on the assertion made by the defendants in the instant application.

14. I do not find any merits in the application. The instant application being devoid of merits, the same needs to be dismissed. Accordingly, for what has been discussed above **I answer point No.1 in the Negative.**

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

ORDER

IA.No.3 filed by the defendants Under Order 7 rule 11(a) & (d) R/w Sec.151 of CPC is hereby dismissed.

Parties shall bear their own costs.

(Dictated to the Stenographer directly on computer, typed by her and corrected by me and then pronounced in the open court on this **25th day of June-2025**)

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