

KAMS500001462023



**IN THE COURT OF SENIOR CIVIL JUDGE & J.M.F.C.,
NANJANGUD**

Dated this the 29th day of November 2023

Present : **Smt. B. Anupama Lakshmi**, B.A., LL.B.,
Senior Civil Judge & JMFC,
Nanjangud.

O.S./52/2023

Plaintiff : Gowramma W/o K.Mahadevaswamy
D/o late K.Basappa,
aged about 53 years,
residing at Gattawadi Village,
Dodda Kowlande Hobli,
Nanjangud Taluk.

-V/s-

Defendants

1. Shivamma W/o late K.Basappa,
aged about 84 years,
2. Rathnamma W/o late B.Madappa,
aged about 56 years,
3. Geetha D.M. D/o late B.Madappa,
W/o Mahadevaswamy,
School Master (son of Gadi Mallappa)
aged about 37 years,

Harave village and hobli,
Chamarajanagar Taluk and District.

4. C.M.Sathish S/o late Madappa,
aged about 35 years,
5. Nanjammanni D/o K.Basappa,
W/o Guruswamappa,
aged about 61 years,
6. B.Nanjappa D/o late K.Basappa,
aged about 58 years,
7. Neelamma W/o B.Nanjappa,
aged about 50 years,

Defendants 1, 2, 4 to 7 are
residing at Chunchanahalli
village and post,
Kowlande hobli,
Nanjangud Taluk.

8. Nagesh Kumar N.
S/o Nagaraju,
residing at Chunchanahalli
village and post,
Kowlande hobli,
Nanjangud Taluk.

Presently residing at
House No.2, 5th Cross,
K.V.Layout,
behind Radhakrishna Lodge,
Cottonpete, Chikpete,
Bengaluru City.

I.A. I

Applicant : Rathnamma and others
.... Defendants 2 to 4, 6 & 7
(By Sri. D.Jagadeesh, Advocate)

-V/s-

Opponent : Gowramma
... Plaintiff
(By Sri. B.Nanjundaswamy, Advocate)

ORDERS ON I.A.I UNDER ORDER VII
RULE 11(a) & (d) OF CPC

The defendants No.2 to 4, 6 & 7 filed the present I.A., on the date of their first appearance before the court after service of summons, seeking for rejection of plaint.

2. The plaintiff filed statement of objections through her counsel.

3. Heard both sides. Perused the pleadings and materials on record.

4. The point that arises for consideration is as follows:-

Whether the valid grounds are made out to reject the plaint as prayed for ?

5. The above point is answered in the **Negative** for the following:-

REASONS

6. The present suit is instituted for the relief of partition and separate possession suit schedule properties. Case of the defendants No.2 to 4, 6 and 7 is that, there does not exist joint family on the date of filing of the suit and a registered partition has already been taken place earlier to the amendment of Hindu Succession Act. Therefore, according to the said defendants there is no cause of action for the suit and the suit is barred by law.

7. The said defendants have admitted the relationship with the plaintiff. The plaintiff has denied the case of the said defendants. It is trite law that, a plaint can be rejected if the plaint averments disclose that the suit is barred by any law or there is no cause of action for

the suit. In the present case a perusal of plaint averments does not disclose any partition that has taken place in the family of the plaintiff and the defendants as alleged by the defendants 2 to 4, 6 and 7. Furthermore cause of action for the suit has been clearly stated in the plaint. Therefore, the point for consideration is answered in the **Negative**. Hence, the following:-

ORDER

I.A. I filed by the defendant Nos.2 to 4, 6 and 7 under Order VII Rule 11(a) and (d) C.P.C. is dismissed.

(Dictated to the Stenographer directly on computer, revised, corrected and then pronounced by me in open Court on this the 29th day of November 2023).

(B.Anupama Lakshmi)
Senior Civil Judge, Nanjangud.