

KAMS500004372024



**IN THE COURT OF SENIOR CIVIL JUDGE & JMFC  
NANJANGUD**

**Present :** **Sri. Kamalaksha D., B.A., LL.B.,**  
Senior Civil Judge & J.M.F.C.,  
Nanjangud.

**Dated this the 15<sup>th</sup> day of November 2025**

**O.S./102/2024**

**Plaintiff:**

Rajashekara Murthy  
S/o Mahadevappa,  
aged about 39 years,  
residing at Hebbya Village,  
Chikkaiahnachathra Hobli,  
Nanjangud Taluk.

**-V/s-**

**Defendants:**

1. Mahadevappa S/o late Veerathaiah,  
aged about 75 years,  
residing at Hebbya Village,  
Chikkaiahnachathra Hobli,  
Nanjangud Taluk.
2. Shivamma W/o Mallanna,  
D/o Mahadevappa,  
aged about 43 years,  
residing at Dandikere Village,  
Varuna Hobli,  
Mysuru Taluk.

3. Susheela  
W/o late Rajanna,  
D/o Mahadevappa,  
aged about 41 years,  
residing at Kochanahalli Village,  
Varuna Hobli,  
Mysuru Taluk.
4. Ningammanni  
W/o late Siddesha Murthy,  
D/o Mahadevappa,  
aged about 35 years,  
residing at Lalanakere Village,  
Kotthatthi Hobli,  
Shrirangapattana Taluk,  
Mandya District.
5. A.K.Gopalakrishnan  
S/o late A.R.Subramaniyan,  
aged about 73 years,  
residing at No.1135,  
Balakrishna Road,  
Chamaraja Mohalla,  
Mysuru.
6. R.Venkataraman  
S/o late A.R.Ramakrishnan,  
aged about 76 years,  
residing at No.652, MIG, 3<sup>rd</sup> Phase,  
Sharadhadevi Nagara,  
Chamaraja Mohalla,  
Mysuru.
7. Srirangarajan  
S/o late A.R.Ramakrishnan,  
aged about 77 years,

8. P.S.Prabha S/o late C.Ranganathan,  
aged about 67 years,

Both are residing at No.1980,  
Kothwal Ramaiah Street,  
Devaraja Mohalla,  
Mysuru.

9. R.Kishore Kumar  
S/o late Rangaiah,  
aged about 58 years,  
residing at Office No.5,  
Lakshmi Complex,  
RMV Extension, 1<sup>st</sup> Floor,  
Sadashivanagara,  
Bengaluru.

**I.A. III**

**Applicant** : R.Kishore Kumar  
.. 9<sup>th</sup> defendant  
(By Smt. D.T.V., Adv.)

**-V/s-**

**Opponents** : Rajashekaramurthy  
... plaintiff  
(By Sri. M.C.C. Adv.)

**ORDERS ON I.A.III FILED UNDER ORDER  
VII RULE 11(a) to (d) R/W SECTION 151 OF CPC**

The 9<sup>th</sup> defendant has filed this application on the  
above said provision to reject the plaint.

2. It is sworn in the affidavit that, the suit is filed for partition and separate possession. The defendants filed written statement. The plaint is liable to be rejected in accordance with the provision of Order VII Rule 11(d) of C.P.C. as the plaint fails to disclose a cause of action against the defendants and the suit is barred by law of limitation. The applicant claims to be the absolute owner in possession and enjoyment of items No.1 and 2 suit schedule properties. It is further submitted that he purchased item No.1 suit schedule property bearing Sy.No.27/1B (old Sy.No.27/1) measures 26 guntas situated at Hebya Village of Nanjangud Taluk, from defendants No.5 to 8 through registered sale deed dated 24.02.2021 and the same was duly registered in the office of Sub-Registrar, Nanjangud. The khatha of the said property also got changed. The item No.2 of the suit schedule property bearing Sy.No.85/2 (old Sy.No.85) measures 2 acres 32 ½ guntas situated at Hebya Village of Nanjangud Taluk is also purchased from defendants No.5 to 8 through registered sale deed dated 24.02.2021 and the

same was duly registered and khatha was also changed. It is further sworn that, thereafter the applicant / 9<sup>th</sup> defendant approached the concerned authority to convert the above said lands i.e., items No.1 and 2 from agriculture to residential layout purpose. After due formalities the Deputy Commissioner, Mysuru passed an order dated 26.10.2023 for conversion of the above said lands. The suit schedule properties are not the agriculture land, hence the suit of the plaintiff is not properly valued and court fee paid by the plaintiff is insufficient. Items No.1 and 2 properties originally belonged to one Veerathappa S/o Basappa, the said Veerathappa for his family and legal necessities sold items No.1 and 2 to A.K.Ranga Iyer S/o Krishan Iyer through a registered sale deed dated 08.10.1947 and the said sale deed was duly registered in the office of the Sub-Registrar, Nanjangud. After the said sale transaction, khatha of the said purchased land was changed to the name of A.K.Ranga Iyer. From the date of said sale deed dated 08.10.1947 itself A.K.Ranga Iyer was in possession and enjoyment of the said property till his

death. After his death, his legal heirs are continued in possession and enjoyment of the suit schedule properties. The defendants No.5 to 7 are the grand children of said A.K.Ranga Iyer and the defendant No.8 is the wife of deceased grand son of A.K.Ranga Iyer by name C.Ranganathan. The defendants No.5 to 8 are the only living surviving legal heirs of said A.K.Ranga Iyer. The defendants No.5 to 8 have acquired the items No.1 and 2 of schedule properties through inheritance and the defendants No.5 to 8 were in joint possession and enjoyment of the suit schedule properties.

Defendants No.5 to 8 for their family and legal necessities sold items No.1 and 2 properties in favour of the applicant through separate registered sale deeds dated 24.02.2021 and handed over the possession of the purchased property in the name of purchaser/ 9<sup>th</sup> defendant. As per the plaint averments the said A.K.Ranga Iyer's vendor Veerathapa S/o Basappa is the grandfather of the plaintiff and defendants No.2 to 4 and father of

defendant No.1. Veerathappa sold items No.1 and 2 schedule properties to A.K.Ranga Iyer through a registered sale deed dated 08.10.1947 for legal necessities. As per the age of the plaintiff and defendants No.1 to 5 mentioned in the cause title is concerned, the age of the 1<sup>st</sup> defendant was 2 years old at the time of said sale transaction in between Veerathappa and A.K.Ranga Iyer in respect of items No.1 and 2 of suit schedule properties through registered sale deed dated 08.10.1947. The plaintiff and defendants No.2 to 5 are not at all born at the time of the said sale deed. The 1<sup>st</sup> defendant not at all challenged the said alienation of the items No.1 and 2 of suit schedule properties made under registered sale deed dated 08.10.1947 within the statutory period and 1<sup>st</sup> defendant lost his right over the suit schedule properties. The plaintiff is not born on the date of execution of sale deed dated 08.10.1947. Hence, the plaintiff is not at all having any right, possession, interest over the suit schedule property and locus standi to file the said suit after lapse of

77 years. Hence, the suit filed by the plaintiff is barred by limitation. Therefore, he prays to reject the plaint.

3. Per contra, the plaintiff filed objections stating that the application is to be dismissed in limine. The defendant No.9 has not mentioned proper reason to reject the plaint. It is further explained that, the 9<sup>th</sup> defendant has come up with this application by creating unwanted things. The facts in which involved in a suit is mixed question of law, hence without a full-fledged trial the application cannot be allowed to reject the plaint at this premature stage. It is further submitted that 9<sup>th</sup> defendant in order to drag the matter has come up with the present application with a malafide intention to grab the properties. The defendant No.9 has not produced any iota of document with respect to partition effected earlier between the plaintiff and defendants No.1 to 5 and also defendant No.9 has not produced any cogent documents with respect to the age of the plaintiff and defendant No.1

as mentioned in the affidavit. Therefore, he prayed to reject the application.

4. Heard. Perused pleadings and materials placed on record. The points that arise for consideration are:

1. Whether the applicant/ defendant No.9 has made out grounds to reject the plaint at this juncture on the question of limitation and want of cause of action?

2. What order ?

5. The above points are answered as follows :-

Point No.1 : In the negative

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

### **REASONS**

6. **Point No.1:-** The guiding principle to reject the plaint under Order VII Rule 11 C.P.C. is that, the court need to look into the averments of the plaint, but not the averments of the defence and documents introduced by the defendants. Therefore, court need not look into the averments of the written statement to reject the plaint. In

the present matter the 9<sup>th</sup> defendant says that the suit of the plaintiff is to be rejected on the ground of limitation as well as want of cause of action, because the plaintiff has not challenged the registered sale deed dated 08.10.1947 and the plaintiff and defendants No.2 to 5 are not at all born at the time of said sale deed. However, it is important to say that the 9<sup>th</sup> defendant purchased the suit schedule property on 24.02.2021. However, it cannot be said that the plaintiff lost right over the property merely for purchase of schedule properties, because the purpose of the purchase is to be seen in the evidence to say that the 9<sup>th</sup> defendant is bonafide purchaser or otherwise. I have gone through the averments of the plaint. The plaintiff has not disclosed anything about the sale transaction said to be took place on 08.10.1947. So, the said sale transactions between Veerathappa and A.K.Ranga Iyer have not been explained anywhere in the plaint. Therefore, the question to decide the suit on the limitation would not arise for consideration. When the earlier transaction said to be held in the year of 1947 has not been mentioned, it is not

proper to say that the suit of the plaintiff is absence of cause of action. The plaintiff has just explained that the sale deeds executed on 24.02.2021 in favour of the 9<sup>th</sup> defendant by the defendants No.5 to 8 are not binding to the share of the plaintiff. The sale transactions in between defendants No.5 to 8 and 9 took place recently in the year of 2021 i.e., after the cut off date of 20.12.2004. Therefore, the plaintiff has definitely has cause of action to challenge the sale deed executed by the defendants No.5 to 8 in favour of the 9<sup>th</sup> defendant. The plaintiff never explained the earlier transaction in between Veerathappa and A.K.Rang Iyer held in the year 1947. The question of limitation is mixed question of fact and law, it is to be decided in the trial not through an application under Order VII Rule 11 of C.P.C., because a suit cannot be decided only on the basis of Order VII Rule 11 C.P.C.

7. At this juncture, I would like to refer some decided judgments of the Hon'ble High Court of Karnataka. The Hon'ble High Court of Karnataka in the case of

**K.C.Leelavathi Vs. Ramanjanamma and others** reported in **2023 (3) Kar.L.R. SN 111** has held that, “*As per Article 109 of the Limitation Act, suit was required to be filed within 12 years from the date of execution of sale deed.....*” But the said suit is filed within limitation because sale transaction was held between the defendants No. 5 to 9 in the year of 2021. This matter is filed well within the limitation period.

8. In the case of **Shivabasappa Vs. Shivamma and others** reported in **AIR Online 2023 KAR 1297**, the Hon'ble High Court of Karnataka held that, “*When the scope under Order 7, Rule 11 is limited, the Court has to look into the averments of the plaint and when the plaint averments are specific with regard to what happened after the said partition and also possession was not delivered and possession was continued with the other defendants and out of the said income the other property was purchased. These are all the aspects of disputed facts and*

*the same cannot be decided in an application filed under Order 7 Rule 11 of C.P.C.”*

9. In another case between **Amulya N. Gowda and Ammajamma and others** reported in **2023(4) AKR 118**, the Hon'ble High Court of Karnataka has held that, *“Application filed for rejection of suit on grounds of it being time barred. In respect of limitation is concerned, the cause of action is a bundle of facts, without trial, it cannot be decided. In the case on hand, the plaintiffs have pleaded that the cause of action arose on 19.09.2016, the day when the gift deed has been executed and also on the day it is registered and also on 05.11.2021 when the said late Thimmaiah died.”* In another decided case of **Channegowda Vs. Asha** reported in **AIR 2023 (NOC) 654 (KAR)**, the Hon'ble High Court of Karnataka once again held that, *“.....specifically pleaded in the plaint with regard to the creation of the document and the same came to their knowledge and the said fact is also a disputed fact and the same has to be considered only during trial. The*

*Trial Court while rejecting the application comes to the conclusion that the issue involved between the parties involves mixed question of fact and law.”* Therefore, in all the above referred matters, the Hon'ble High Court of Karnataka repeatedly held that when the defendants raised question of limitation to reject the plaint, the said question has to be answered in the trial, but cannot be answered an application filed under Order VII Rule 11(d) of C.P.C.

10. The learned counsel for the defendant No.9 furnished four documents. As mentioned above, it is not proper stage to look into the documents produced by the defendant No.9 at this moment to reject the plaint. The learned counsel for the defendant No.9 relies the judgment of the Hon'ble High Court of Karnataka reported in **HCR 2025 Kant.343** in the case of **Sathish and others Vs. K.N.Nagaraj and another**. In that matter the Hon'ble High Court of Karnataka held that, *“clever drafting of plaint to create illusive cause of action should not come in way of Court to nip in the bud such bogus litigation. Where a plaint*

*ex-facie indicates that, it is barred by law, Court ought to exercise power under Order 7 Rule 11 and reject plaint.”*

The present suit is filed on 10.06.2024 and the sale transaction was happened in between defendants No.5 to 8 and 9 on 24.02.2021. The suit is not time barred one. Therefore, the defendant cannot take shelter of judgment of the Hon'ble High Court of Karnataka. In conclusion, it may be said that the plaintiff never explained and narrated the earlier transaction said to be held in the year of 1947. His suit is based on the sale transaction between defendants No.5 to 8 and 9 made on 24.02.2021. The suit is filed on 10.06.2024. Hence, the question of limitation does not arise for consideration. The 8<sup>th</sup> paragraph of the plaint is reserved to explain the cause of action. It is mentioned that cause of action has arisen on 10.05.2024 being the date on which the plaintiff approached the defendants and convened a panchayath and subsequently each and every day the cause of action exists within the jurisdiction of this court. Hence, it is not proper to reject the plaint at this premature stage on the basis of the

application under Order VII Rule 11 of C.P.C. Therefore, **point No.1** is answered **in the negative**.

11. **Point No.2:-** In view of the findings on the above point, this Court proceeds to pass the following:

**ORDER**

I.A.III filed by the applicant/defendant No.9 under Order VII Rule 11(a) to (d) r/w Section 151 of C.P.C. is dismissed.

No order as to cost.

*(Dictated to the stenographer, transcribed by her on computer, revised, corrected and then pronounced by me in open Court on this the 15<sup>th</sup> day of November 2025).*

**(Kamalaksha D.)**  
Senior Civil Judge & J.M.F.C.,  
Nanjangud.