

KAMS500009732024



**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 19<sup>th</sup> day of November 2025**

**O.S./248/2024**

**Plaintiff:**

1. D M Shivamurthy,  
S/o Baavishetty Marappa,  
aged about 65 years,
2. D M Puttaswamy,  
S/o Late Baavishetty Marappa,  
aged about 63 years,
3. Smt. Devammani,  
W/o Late Doddamallappa,  
aged about 54 years,
4. Shivakumara D M,  
S/o Late Doddamallappa,  
aged about 34 years,
5. Sri. Girish,  
S/o Late Doddamallappa,  
aged about 32 years,

All are residing at Duggahalli village,  
Hullahalli Hobli, Nanjangud Taluk

**-V/s-**

**Defendants:**

1. Madappa,  
S/o Late Eraiah @ Veerappa,  
aged about 63 years,
2. Shivanagappa,  
S/o Late Mahadevappa,  
aged about 45 years,
3. Shivaprasad,  
S/o Late Mahadevappa,  
aged about 44 years,
4. Shivanna,  
S/o Late Veerabhadrappe,  
aged about 44 years,
5. Naganna,  
S/o Late Eraiah @ Veerappa,  
aged about 66 years,

Defendant no.1 to 5 are  
residing at Duggahalli village,  
Hullahalli Hobli, Nanjangud Taluk

6. Aasif S/o Late Mohammed Shafi  
Ulla, aged about 52 years,  
residing at Doora village, Jayapura  
Hobli, Mysore Taluk .

**I.A. II**

**Applicant** : Madappa  
.. 1<sup>st</sup> defendant  
(By Sri S,S.T., Adv.)

**-V/s-**

**Opponents** : D M Shivamurthy and others  
...1<sup>st</sup> plaintiff  
(D.no.1 By Sri. S.G . Adv.)  
(D.no.2, 4 and 5-exparte)

**ORDERS ON I.A.II FILED UNDER ORDER  
VII RULE 11(a) to (d) OF CPC**

The 1<sup>st</sup> defendant has filed this application on the above said provision to reject the plaint on the question of absent of cause of action and limitation.

2. It is sworn in the affidavit that, the suit is filed for declaration and injunction. The 1<sup>st</sup> defendant prays to reject the plaint because the plaint does not disclose cause of action and the suit is barred by limitation the suit is field for the relief of declaration and permanent injunction in respect of the schedule properties of Sy.no.64/2 measures 1 acre 24 guntas and Sy.no.65/2 measures 4

acres 3 guntas out of which 2 acre total 3 acre 24 guntas of property. However the 1<sup>st</sup> defendant objecting the plaint stating that, the dispute between the parties were adjudication in OS.No.70/12. In that suit, 1<sup>st</sup> and 2<sup>nd</sup> plaintiff of this suit were the 2 and 3<sup>rd</sup> defendant and husband of the 3<sup>rd</sup> plaintiff of this suit and 4<sup>th</sup> and 5<sup>th</sup> plaintiff herein were also parties. The suit was filed at the instance of plaintiff herein. The said suit was decided on 27.04.2015. After that, Nanjappa had prepared of the RA.no.197/2015 in the Hon'ble 1<sup>st</sup> Addl. District court and the said RA was also dismissed on 11.09.2017. While giving statement the plaintiff herein admitted the partition of property on 12.08.1942 and also admitted that the share was given to daughter of Bhavihatti Marappa. Even after dismissal of the suit they field OS.No.59/2020 for partition and separate possession on illusory cause of action. In that suit, the plaintiff of OS.No.59/2020 did not disclose the result of OS.No.70/2012. Therefore there is no cause of action to file the suit.

It is further explained that, the plaintiffs have not produce any document to support their claim. The suit is filed after laps of limitation of time because the Judgment on OS.No.70/2012 was pronounced on 27.04.2015 and this suit was filed on 20.11.2024. Hence the 1<sup>st</sup> defendant also seeks to reject the plaint on the ground of limitation. Therefore this application.

3. Per contra, the plaintiffs have filed objections mentioning that, the application is to be dismissed because the 1<sup>st</sup> defendant explained vexatious ground and urged to reject the plaint. It is further explained that, court need not look into the documents and written statement of the defendants to decide the suit under Order 7 Rule 11 of CPC.

In the instance suit, the 1<sup>st</sup> defendant has to prove that, the plaintiffs have no tile over the property including the right of permanent injunction. The question of limitation is mixed question of law an facts, the said material has to be look into the trial, the application is filed

to defraud the right of the plaintiff. Hence the plaintiffs have 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.1 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 1<sup>st</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 plaintiffs have not challenged the judgment and decree passed in OS.No. 59/2020 and they have also not disclosed the result of OS.No.70/2012. As mentioned above, the suit is filed for cancellation of compromised decree passed in OS.No. 28/2020 on the ground of its non application to the plaintiff and declared them to be the owner of suit schedule property. If the compromise of decree OS.No.28/2020 is taken for consideration, the suit of the plaintiff is not barred by limitation. The suit is filed by questioning the compromise decree passed in OS.No. 28/2020. Therefore the plaintiffs are challenging the compromise decree, but not the Judgment and decree of any earlier decided matter. The binding nature of compromise decreed of OS.No. 28/2020 is to be decided in trial, but not on the basis of application because the right of the plaintiff cannot be decided on application. The plaintiff challenging the compromise decree, so the validity of the compromise

decree would be the cause of action and plaintiff himself also mention in the 7<sup>th</sup> paragraph of the plaint that, the compromise decree dated 23.09.2024 in OS.No.28/2020 is the reason for dispute, this is the cause of action according to the plaintiffs.

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.....*”.

As mentioned above the plaintiff are challenging the veridity of compromise decree that cannot be decided in an application.

8. 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.*

9. 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. It is well known principle of law on rejection of the plaint that, court need not look into the averment and document of the defendant, but only enough to look into the facts of the plaint. The facts of the plaint explained that, the plaintiffs are challenging the validity of the compromise decree passed in OS.No.28/2020, but not other earlier suits. 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.II filed by the applicant/defendant  
No.1 under Order VII Rule 11(a) to (d) 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 19<sup>th</sup> day of November 2025).*

Senior Civil Judge & J.M.F.C.,  
Nanjangud.