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<b>I.A.No.</b>	<b>29</b>
<b>I.A filed by the</b>	<b>Defendant No.4</b>
<b>Date of filing of I.A</b>	<b>08.08.2023</b>
<b>Date of filing of Objections filed by the Plaintiffs</b>	<b>04.09.2023</b>
<b>Date of Order</b>	<b>19.08.2024</b>

**IN THE COURT OF THE PRL.SENIOR CIVIL JUDGE AND  
CJM., AT RAMANAGARA**

**Dated : This the 19<sup>th</sup> Day of August, 2024**

**Present:-**

**Sri. Lokesha,**  
**B.A., LL.B.,**  
Prl. Senior Civil Judge & CJM.,  
Ramanagara.

**O.S.No.495/2012**

**Plaintiff** :- Sri.N.Nanjappa

**V/s**

**Defendants** :- Smt.Padmavathi and others



**I.A.No.29**

**Applicant** :- Sri. B.J.Lakshmisagar  
- (Defendant No.4)

**-V/s-**

**Opponent:-** Sri.N.Nanjappa  
- (Plaintiff)

\* \* \*

**ORDER ON I.A.NO.3**

This application has filed by the 4<sup>th</sup> Defendant Sri. B.J.Lakshmisagar requesting the court to reject the plaint for want of cause of action, as under valued and barred by law.

2. In the affidavit filed accompanying this application 4<sup>th</sup> Defendant states that the Plaintiff has filed this suit for partition and separate possession. That the plaintiff approached this court contending that he has purchased property from this defendant and other defendants on 01.01.2011 and it was owned by Chikkaramaiah who had executed sale deed dated 12.07.1983 in favour of 1<sup>st</sup> defendant. It is further stated



that suit is not framed under Order 6 Rule 1 of CPC. That 6<sup>th</sup> defendant is in possession of the property. The plaintiff himself filed an application to implead one Vikas Jain in which it is stated that there is alienation of the property through sale deed dated 08.12.2017, 21.04.2016, 12.05.2016, 21.04.2016 and 12.05.2016. It is further stated that on careful perusal of the prayer sought for in the plaint it indicates that to declare the sale deed is not binding. The 2<sup>nd</sup> prayer with respect to ownership is concerned is not sustainable. Hence he prays to reject the plaint.

3. On the other hand the counsel for the Plaintiff Lr has filed detailed objections to this application contending that application is not maintainable either in law or on facts. It is further stated that Plaint can be rejected only on the ground enumerated under Order 7 Rule 11 of CPC. It is further stated that defendant has



failed to establish that suit is barred by law. Hence he prays to reject the application.

4. I have heard the arguments of the learned counsel for the Defendant No.1 to 4. The counsel for the plaintiff has not addressed the arguments on this application. I have perused the case record.

5. The following Points arise for my consideration:-

(1) Whether I.A.No.29 filed by the Defendant No.4 under Order VII Rule 11(a) to (d) r/w.Sec.151 of the CPC., deserves to be allowed?

(2) If so, what order?

6. My answers to the above points are as under:-

Point No.1 : In the Negative;

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

**REASONS**



**7. Point No.1:-** Admittedly, present suit filed for partition and separate possession with respect to agricultural lands bearing Sy.No.199, measuring 3 acre 35 guntas including 2 guntas, situated at kenchanaguppe Village, contending that plaintiff is absolute owner in possession and enjoyment of suit property purchased through sale deed dated 01.01.2011, executed by Defendant No.1 to 4. It is further pleaded that originally suit property was belonged to Chikkamaraiah who had executed sale deed dated 12.12.1987 in favour of 1<sup>st</sup> Defendant. In para 7 plaintiff pleades that in 3<sup>rd</sup> week of February 2012 Plaintiff learned that alleged sale deed executed by 5<sup>th</sup> Defendant in favour 6<sup>th</sup> defendant on 30.04.2011. I have perused the entire plaint averments. In the plaint in para 15 the plaintiff pleaded about cause of action as arose on 30.04.2011 when the Defendant No.1 to 4 sold the suit property in favor of 6<sup>th</sup> defendant.



8. Now the question to be decided whether the plaintiff's averments clearly show that the suit is barred by any law. It does not disclose the cause of action. Cause of action is defined in the law lexicon by P.Ramanath Iyer as follows. "The elements of cause of action are first breach of duty owing by one person to another, second the damage, resulting to the other from breach. The commission or the commission of an act by the defendant and damage to the plaintiff in consequence thereof must be united to give a good cause of action. The cause of action is a bundle of facts which is necessary for the plaintiff to prove in order to succeed in the suit.

9. From a careful perusal of the plaintiff's averments it becomes clear that the right has accrued for the plaintiff to enforce an obligation against the defendants in this case. The plaintiff has to establish his title over the suit property.



The averments of the plaint clearly discloses the cause of action. The plaint does not disclose that relief claimed by the plaintiff is undervalued. The suit not appears from the statement in the plaint that suit is barred by any law. It is well settled principle of law that while dealing with the application filed under Order VII Rule 11 of CPC., only the plaint averments has to be looked into and averments of written statement of Defendants are holly irrelevant. Therefore, in the present case on hand also in order to decide this application filed under Order VII Rule 11 of CPC., only the plaint averments are to be looked into. Therefore, this court come to conclusion that plaint cannot be rejected under Order VII Rule 11 of CPC., as sought for by the 4<sup>th</sup> Defendant. The Plaintiff has made out clear cause of action to file the suit and plaint cannot be said to be under valued, as pleaded by the defendant and at this stage, suit cannot be said to be barred by any



law. With these reasons, **I answer Point No.1 in the “Negative”.**

**10. Point No.2:-** In view of my answer to Point No.1, I proceed to pass the following :-

**ORDER**

I.A.No.29 filed by the Defendant No.4 under Order VII Rule 11(a) to (d) R/w Sec.151 of the CPC., is hereby dismissed with cost of Rs.500/- payable to Plaintiff.

*(Dictated to the Typist, directly on computer typed by her, the corrected and then pronounced by me in the open Court on this the 19<sup>th</sup> day of August, 2024).*

(LOKESHA)  
Prl.Senior Civil Judge & CJM,  
Ramanagara.