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**IN THE COURT OF THE ADDITIONAL CIVIL JUDGE &
JMFC., AT CHANNAPATNA**

PRESENT: **SRI. SURESHA.S.N.,** B.A., L.L.B.,
Addl. Civil Judge & JMFC
Channapatna

Dated:- 26th day of June 2025

O. S. No.120/2020

BETWEEN: Smt. Chikkolamma & Others
//VERSUS//

AND : Sri. Ningaraju & another

I. A. No.V

APPLICANT/S: Sri. Ningaraju
..... (Defendant No.1)
V/s

OPPONENT/S: Smt. Chikkolamma & Others
..... (Plaintiffs)

i.	Provision under which the application is filed	Under order VII Rule 11(d) of CPC
ii.	Relief sought for	Rejection of plaint
iii.	The date on which the application is filed	01.04.2025
iv.	Number of the application	IA No.V
v.	The date on which the objection is filed by different opponents	01.04.2025

vi.	The date on which the orders were passed on the said application	26.06.2025
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**ORDERS ON I.A. No.II FILED UNDER ORDER
7 RULE 11(d) OF C.P.C.**

The Applicant/defendant No.1 has filed application/I.A. No.V under order 7 Rule 11(d) of CPC, seeking for rejection of plaint for the reasons mentioned in the accompanying affidavit.

2. It is averred in the affidavit that, applicant is the defendant No.1 in the case. The plaintiffs have filed this suit against the defendants for the relief of Partition and Separate Possession. The plaintiffs have stated in their affidavit that, the Ningegowda @ Muddegowda is the Kartha of the family of plaintiffs and defendants and plaintiff's mother 1st plaintiff by name Chikkolamma is the wife of said Ningegowda @ Muddegowda. But the defendants stated that, they are only the children of said Ningegowda @ Muddegowda. In support of this the plaintiffs have present the genealogical tree, it shows that Smt. Mariyamma and Chikkolamma are the wives of said Ningegowda @ Muddegowda.

3. The defendants/applicants further submits that, the Mariyamma is the legal wedded wife of Sri.Ningegowda @ Muddegowda and the defendant No.1 to 4 are the children of Nignegowda @ Muddegowda and they are the legal wife and

children. The plaintiffs stating in their pleading that, the suit schedule properties are ancestral properties is true but the defendants are only the successors of said suit schedule properties. In this regard the defendants are in possession and enjoyment of the suit schedule properties. The plaintiffs have filed this false and frivolous suit against this applicants/defendants and his father on the basis of Genealogical tree. The suit is barred by law of limitation and the cause of action has not arisen to file the suit against the defendants and the alleged cause of action mentioned in the plaint are all imaginary, concocted and created only to file this false and frivolous suit against these defendants. Hence, the suit is liable to be rejected. The defendants have good case on hand to urge before this Court, if the application is not allowed definitely it will prejudice to the defendants and more hardship and injury would be cause to them which cannot be compensated in any manner. On the other hand, it will avoid the multiplicity of the proceedings between the parties in further. Hence, prays to allow the application.

4. The plaintiffs/opponents have filed objection to the said application stating that the application filed by the defendants under Order 7 Rule 11(d) of CPC is not maintainable either in law or on facts and hence the same is liable to be dismissed. The said suit is posted for arguments,

in this stage the defendants filing this present application for drag on the proceedings. The defendants filed several applications without lead evidence and cross-examination to the plaintiffs in their side. The court has given sufficient opportunities, but the defendants did not lead their side evidence but filed the present application to drag the matter and time. Further the propaganda of the defendants will be revealed only after the full fledged trial of the case and at this stage the Court cannot come to the conclusion merely relying upon the false, baseless and untenable grounds of the defendants. The contents of averments made in the accompanying affidavit to the application by the defendants is far from the truth and lodged the application at this stage by suppressing the material facts. The rest of the allegations in the affidavit of the defendants which are not specifically traversed are all hereby denied as false. Hence, prays to dismiss the application with exorbitant cost.

5. Heard both sides.

6. Upon hearing arguments and on perusal of materials placed on record, the following points that would arise for my consideration.

- (1) Whether the Applicant/Defendant No.1 has made out sufficient grounds to allow the application/I.A. No.V filed under order 7 rule 11(d) of CPC ?

(2) What order ?

7. My findings 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

8. POINT NO.1: Before discussing the facts and circumstances of the present application, we have to know the provision of law. Order 7 Rule 11 specifically states the grounds on which the plaint can be rejected by the Court. When an application is made under Order 7 Rule 11 of the Code, the Court needs to evaluate the application and see whether the plaint instituted is admissible or not. It is to be noted that rejection of plaint under Order 7 Rule 11 is different from return of plaint provided under Order 7 Rule 10 of the Code.

9. In **Saleem Bhai V/s. State of Maharashtra AIR 2003 SC 759** for the purpose of deciding whether the plaint is liable to be rejected or not, only the averments in the plaint are to be considered, and not the pleas taken by the defendants in their written statement. In cases where there is a mixed question of law and fact the rejection of plaint is not ordered by the Court as such a question needs the consideration of evidence as such a question cannot be

decided solely on the basis of a plaint, but the decision of rejection of a plaint as provided under Order 7 Rule 11 has to be decided after looking at only the averments made in the plaint and nothing else. But in case the **Dhiben V/s. Arvind Bhai Kalyaniji Banu sali** citing the case of **Azhar Hussain V/s Rajeev Gandhi AIR 1986 SC 1253** observed that the purpose of power under Order 7 Rule 11 of CPC is to ensure that litigation which is meaningless and bounded to prove abortive should not be allowed, to waste judicial time. But the powers so given to terminate is a drastic one and should be strictly adhered to. Sham litigations not just waste the precious time of the Court but also cause prejudice and harm to the defendants, and hence cause injustice. The grounds of rejection of plaint under Rule 11 Order 7 of CPC provides six rules for rejection of plaint as under :

1. Non disclosure of a cause of action.
2. Plaint is undervalued.
3. Plaint is insufficiently stamped.
4. Relief claimed is barred by law.
5. When plaint is not filed in duplicate.
6. Non compliance with Rule 9 of Order 7.

10. In the present suit we cannot come to the conclusion that the suit is sham and vexatious. The applicant/defendant No.1 has filed the application on the ground that the suit of the plaintiffs is barred by law. On the

said ground he sought the rejection of plaint. Whenever the plaint is rejected, the specific ground mentioned above has to be stated.

11. G. NAGARAJ vs B.P. MRUTHUNJAYANNA 11 April 2023 the Hon'ble Justices Abhay S Oka and Rajesh Bindal have discussed in the case that - The Code of Civil Procedure, 1908; Order VII Rule 11 - For dealing with an application under Rule 11 of Order VII of CPC, only the averments made in the plaint and the documents produced along with the plaint are required to be seen. The defence of the defendants cannot be even looked into. When the grounds pleaded for rejection of the plaint is the absence of cause of action, the Court has to examine the plaint and see whether any cause the Court has to examine the plaint and see whether any cause of action has been disclosed in the plaint."

12. Rejection of plaint is the mixed question of law and fact - this is another important facet to consider while reading order 7 Rule 11 of CPC. The major chunk of jurisprudence around order 7 Rule 11 reveals around rule 11(d), which is provision relating to the rejection of a plaint in cases where the plaint is barred by law. Now in cases where the conclusion of the bar of law is a mixed question of law and fact, the Court does not order the rejection of a plaint. The explanation for such a procedure is quite straight forward,

since a mixed question of law and fact cannot be determined on the sole basis of a plaint, and necessitates proper consideration of the evidence by the Court, the plaints are not dismissed/rejected in such cases. As stated above the Courts needs to only look at the averments in the plaint and reach a finding on the question of rejecting the plaint.

13. In the case **Saranpal Kaur Anand V/s. Praduman Singh Chandhok** the Hon'ble Supreme Court via a two judges bench had contradictory opinions on whether the plaint should be dismissed considering the time barred limitation. While justice Sanjeev Khanna was of the opinion that the plaint itself portrayed that the suit was time barred, Justice Bela Trivedi opined that such a limitation was the mixed question of law and fact, and thus needed a trial.

14. In another case **Smt. Sitha Sripad Narvekar and others V/s. Ayduth Timlo** the Bombay High Court stated that for the purpose of reaching an interference and the application of order 7 Rule 11(d), the averments in the plaint must be scrutinized without adding or subtracting anything. Since res judicata is both a mixed question of law and fact, the Court will have to inspect it on the basis of evidence produced by the parties on the merits of the claim.

15. In another case of **Papat and Kotecha property V/s. State Bank of India staff Association (2005) 7 SCC**

510, it is held that – in respect of the proposition that order 7 Rule 11(d) was not applicable in a case where a question has to be decided on the basis of fact that the suit was barred by limitation.

16. In the present suit it needs trial to decide the dispute arose between the parties to the suit. Further it has to be looking into the documents and recording the evidence from both side is very much required and then is to become conclusion on merit. In the present suit the plaintiffs have contended that, however at this stage only on the reasons stated in the present application, it is impossible to come to the conclusion that the plaintiffs have filed the present suit after barred by law of limitation. All the cases are in its different facts and circumstances, each cases are not similar, on the basis of reasons stated in the application, it is impossible to come to the conclusion that the plaint has to be rejected. It requires full fledged trial, on the basis of documents and on recording of evidences it has to be decided. Moreover in the case the defendants/applicant filed the written statement to the plaint to contest his version on the basis of said pleading this court has framed issues and record the evidence from the plaintiffs side. The suit the plaintiffs have lead their evidence also got marked documents in their side. In case the suit is really barred by law the defendants

could have been filed the application before filing written statement. Hearing the suit the trial become ending at this stage the applicant filed the present application.

17. In the light of the above discussion, I am of considered view that the present application is thus without any merit, same is liable to be dismissed. Consequently I answer Point No.1 in the **Negative.**

18. **POINT NO.2:** In view of my discussions and findings on Point No.1, I proceed to pass the following;

ORDER

I.A. No.II filed by the defendant No.2
under Order VII Rule 11 of CPC is hereby
dismissed.

For plaintiffs arguments.

Call on 01.07.2025.

(Dictated to the stenographer, computerized by her, corrected, then signed by me and pronounced in the open Court on this the **25th day of June 2025.**)

Sd/-
(SURESHA S.N.)
Addl. Civil Judge & JMFC.,
Channapatna.