

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

PRESENT: **SRI.MAHENDRA.M** B.A, LL.B.,
Prl. Civil Judge & JMFC,
Channapatna.

Dated this 22nd day of September 2021

O.S. NO.161/2020

PLAINTIFF : Sri.Channappa C.
-V/s-

DEFENDANTS : Sri.Rizwan & Others

I.A.No.IV

**APPLICANTS/
DEFENDANTS** :

1. Sri.Rizwan
S/o Rasual Khan,
Aged about 40 years,
2. Sri.Syed Safi,
S/o Syed Hussain,
Aged about 55 years,
3. Sri.Syed Jeelu,
S/o Syed Pasha,
Aged about 45 years,
4. Sri.Syed Saleem,
S/o Syed Khader,
Aged about 38 years,

All are R/at New Makhan,
Behind Ashraya Hotel,
Near Tol Gate, B.M.Road,
Channapatna Town,
Ramanagara District.

(By. Sri.N.S., Adv.,)

-V/s-

**OPPONENT/
PLAINTIFF:**

Sri.Channappa C.
S/o late Channegowda,
Aged about 63 years,

R/at Keremegaladoddi Village,
Kasaba Hobli,
Channapatna Taluk,
Ramanagara District.

(By Sri.K.T.T., Advocate)

ORDERS ON I.A NO.IV FILED UNDER ORDER 7 RULE 11(d)

R/W SEC.151 OF CPC

The learned counsel for the defendants has filed an I.A. No.IV u/O.7 Rule 11(d) r/w Sec.151of C.P.C. seeking reject the plaint for want of cause of action and maintainability of the suit.

2. The defendant No.2 has filed sworn affidavit in support of I.A. No.IV and stated that, the plaintiff has filed this suit for the relief of permanent injunction. The plaintiff is never in possession of the suit schedule property, the question of disturbance by the defendants does not arise at all. There is no cause of action arose for filing of this suit and the plaintiff has filed this suit only for their illegal benefits and the suit of the plaintiff is not maintainable either in law or on facts the same is liable to be dismissed. The suit schedule site is not at all formed in Sy No.124/2B, measuring 0.3¼ guntas and 124/2A, measuring 0.3¼ guntas situated at Honniganahalli Village. The boundaries and measurements mentioned in the sale deed are not at all tallied. The plaintiff is concocted and created the documents. There is no specific date mentioned in the plaint in

respect to cause of action. The 4th defendant is the working as driver, Channapatna from 8.45am to 5.45 pm. The plaintiff is not aware of the existence of suit schedule property. **Hence reject the plaint by allowing the I.A. No.IV.**

3. The plaintiff filed an objection to I.A No.IV and contended that, the application filed by the defendants is not maintainable either in law or on facts the same is liable to be dismissed. The present suit filed only the relief of permanent injunction. In this suit can be filed only on immediate threat of property, in this case there is no question involved in any other law. The plaintiff specifically pleaded in the plaint in respect of nature of property acquired by him. The Khatha made out in the name of plaintiff and he paid tax to concern authority. The defendants have no right or possession over the suit schedule property. The defendants try to disposes the plaintiff in the suit schedule property. The defendants filed a written statement without disclosing their defense. The defendants intentionally filed this application to drag on the proceedings. **Hence prayed that dismiss the application filed by the defendants.**

4. Now the following points arise for consideration of this court:-

POINTS

1. **Whether the plaint presented by the plaintiff is deserves to reject for want of cause of action and maintainability?**
2. **What order?**
5. **Heard both sides.**

6. This court has perused the materials available on record. This court has answer the above points are as follows:-

Point No.1 : In the Negative

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

REASONS

7. POINT NO.1:- This suit is filed by the plaintiff against the defendants for the relief of permanent injunction in respect of suit schedule property. The defendants have filed the present application for rejection of plaint.

8. Firstly this court has discuss about the provision of **Order 7 Rule 11 Of CPC.**

Rejection of Plaint-The plaint shall be rejected in the following cases-

- a. Where it does not disclose a cause of action,
- b. Where the relief claimed is under valued, and the plaintiff, on being required by the court to correct the valuation within a time to be fixed by the court, fails to do so,
- c. Where the relief claimed is property valued but the plaint is written upon paper insufficiently stamped, and the plaintiff on being required by the court to supply the requisite stamp paper within a time to be fixed by the court, fails to do so,
- d. Where the suit appears from the statement in the plaint to be barred by any law,
- e. Where it is not filed in duplicate,

f. Where the plaintiff fails comply with the provisions of rule 9.

9. As per averements of plaint, the plaintiff purchased the land in Sy No.124/2B, measuring $3\frac{1}{4}$ guntas and Sy No.124/3A measuring $3\frac{1}{4}$ guntas both are sites formed in above survey numbers having common boundary through registered sale deed dtd.27.03.1997 from Shivakumar C.R. The said vendor purchase the above property from B.V. Sarabaiah S/o Veeranna through registered sale deed dtd.17.04.1986, the said Sarabaiah purchased the same from A.S.Krishna Singh on 12.07.1960. After purchased the suit schedule property the plaintiff is in possession and enjoyment over the suit schedule property. Later the suit schedule property included to Panchayath within limits of Vandaraguppe Grama Panchayath. The defendants are strangers to the suit schedule property, but they are interfere with possession of the plaintiff. Hence filed this suit.

10. The present suit filed only the relief of permanent injunction, the scope of this suit is limited. In this suit no any other law barred to file the suit for permanent injunction. The defendant No.2 not discloses that, under which law this suit is not maintainable. The reasons mentioned by the defendant No.2 in his affidavit is matter of trail. In this stage no grounds to reject the plaint.

11. The term cause of action refers to a set of facts or allegations that make up the grounds for filing a suit. A cause of action is therefore by its very nature essential to a Civil suit,

since without a cause of action a civil suit can not arise. In the present suit, the plaint para No.4 is discloses cause of action to filing of this suit. The plaint discloses that on about 15 days back when defendants and their henchmen try to interfere with the possession of the plaintiff over the suit schedule property. The counsel for the defendants argued that, the plaint not discloses the specific date of cause of action. In this suit cause of action of continuation act. Hence the arguments canvased by the counsel for the defendants is not tenable. In the present stage there is no grounds to reject the plaint.

12. The counsel for the defendants relied upon the following decisions:

1. **1977 AIR 2421 between T. Arivandandan V/s T.V. Satya Pal and Another,**
2. **ILR 2008 KAR 390 between Mrs.Anuradha Shenoy V/s N.Nanjappa,**
3. **Appeal(Civil)3038/2008(SC) between Komala And Others V/s K.T.Eshwara and Others,**
4. **SLP Nos.23062-23063/2018(SC) between Urvashiben And Another V/s Krishnakant Manuprasad Trivedi,**
5. **Civil Appeal No.4841/2012 between the Church of Christ Charitable Trust and Educational Charitable Society, represented by its Chair Man V/s M/s Ponniamman Educational Trust represented by its Chair Person/ Managing Trustee.**

With great respect the above decisions are not applicable to the present facts and circumstances of the case. The

application filed by the defendants is not deserves to allowed.
Hence this court has answer the point no.1 in the Negative.

13. **Point No.2:-** In view of aforesaid discussion this court proceeds to pass the following :-

ORDER

I.A.No.IV u/O VII rule 11(d)
r/w Sec.151 of CPC filed by the
defendants is hereby dismissed with
cost of Rs.300/-.

(Dictated to the Stenographer and transcribed by her, Order corrected and signed by me, then pronounced by me in the Open Court on this the 22nd day of September-2021).

Sd/-
(Mahendra.M)
Prl.Civil Judge & JMFC.,
Channapatna.

Order pronounced in open court
(Vide Separate Order sheet)

ORDER

I.A.No.IV u/O VII rule
11(d) r/w Sec.151 of CPC filed
by the defendants is hereby
dismissed with cost of Rs.300/-.

Sd/-
Prl.Civil Judge & JMFC.,
Channapatna.