

**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 18th day of June-2022

O.S. No.153/2017

PLAINTIFFS : Sri.Puttegowda & Another
-V/s-

DEFENDANT : Smt. Prema

I.A.No.III

**APPLICANT/
DEFENDANT** : Smt. Prema,
W/o Basavaraju,
Aged about 40 years,
R/at Mangada Halli Village,
Channapatna Taluk,
Ramanagara District.

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

-V/s-

**OPPONENTS /
PLAINTIFF S** : 1. Sri. Puttegowda
S/o Lingegowda @ Peechegowda,
Aged about 48 years,

2. Sri. Manohara,
S/o Maregowda,
Aged about 32 years,

Both are R/at
Mangada Halli Village,
Channapatna Taluk,
Ramanagara District.

(By.Sri.M.M., Adv.,)

ORDERS ON I.A No.III

The learned counsel for the defendant has filed an I.A. No.III u/O 7 rule 11 r/w Sec.151 of C.P.C seeking reject the plaint as the suit has been instituted by the plaintiffs based on the forged, created and fake documents.

2. The defendant filed an sworn affidavit in support of I.A.No.III and stated that, the plaintiffs filed this suit for the relief of permanent injunction in respect of suit schedule property. The defendant taken contention that the plaintiffs filed this suit on the basis of forged, created and fake documents. The suit of the plaintiffs is not maintainable under the law or on facts. The plaintiffs filed several suits on the basis of forged documents. The suit schedule property originally belongs to Karigowda S/o Kabbalegowda and his brother Dollegowda S/o Kaballegowda. They are grantees of SY. No. 234 of Mangadahalli Village. The boundaries mentioned in the suit or false. Based on the said defenses this court dismissed the suit of the plaintiffs on 01.02.2013. The plaintiffs preferred an appeal before Hon'ble Senior Civil Judge, Channapatna in R.A. No. 25/2018. The said appeal was allowed and remanded back to this court. The suit of the plaintiffs is not maintainable. **Hence the plaint presented by the plaintiffs is deserves to be rejected.**

3. The counsel for the plaintiffs has filed an objection to I.A No.III and contended that, the application filed by the defendant is not maintainable either in law or on facts the same is liable to be dismissed. The plaintiffs further contended that, the application itself prima-facie deserves to be dismissed.

Earlier this court reject the plaint, the Hon'ble Appellant Court set aside the said order and remanded back to this court to proceed with the merits of the case. Therefore the present application is not maintainable. **Hence reject the application filed by the defendant.**

4. The following points are arise for consideration of this court:-

POINTS

1. Whether the plaint presented by the plaintiffs is deserves to be rejected for the suit is instituted on the basis of forged, created and fake documents?

2. What order?

5. Heard the arguments from both the counsels appearing on behalf of the plaintiffs and defendant on I.A No.III.

6. This court has perused the material available on record. The findings of this court in the above points as follows:-

Point No.1 : In the partly Negative

Point No.2 : As per the final order

for the following:-

R E A S O N S

7. **POINT NO.1:-** The plaintiffs have filed this suit against the defendant for the relief of declaration and permant injunction in respect of suit schedule properties. The defendant filed this application seeking reject the plaint.

8. **Under Order VII Rule 11 of Code of Civil Procedure** to provides under what circumstances court can reject the plaint. The said provisions reads as follows:

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

- a) Where it does not discloses cause of action.
- b) Where the relief claimed is under valued, and the plaintiff, on being required by the court to so correct the valuation with in a time to be fixed by the court, fails to do so.
- c) Where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the court to supply the requisite stamped 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 to comply with the provisions of Rule 9.

Provided that, the time fixed by the court for the correction of the valuation or supplying of the requisite stamp papers

shall not be extended unless the court, for reasons to be recorded, is satisfied that the plaintiff has prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp papers, as the case may be, with in the time fixed by the court and that refused to extend such time would cause grave injustice to the plaintiff.

10. In the above circumstances court can reject the plaint. In the present case, this court has been reject the plaint on 13.03.2018 as not maintainable. The plaintiffs preferred on appeal before Hon'ble Senior Civil Judge and JMFC, Channapatna in R.A. No. 25/2018. The said appeal was allowed and permit to both the parties to adduced their oral and documents evidence by giving reasonable opportunity to both side and to dispose of the suit on merits. On the basis of said order this court has reopen the case and case is posted for issues. In this stage the defendant filed present application for rejection of plaint.

11. The contention of the defendant is, the plaintiffs filed this suit on the basis of forged and created documents. In the said facts decided after full fledged trial only. In the said reasons cannot reject the plaint. The said reasons are not fallen to the above provisions Under order VII Rule 11 of CPC. The application filed by the defendant is not maintainable. The same application already filed by the defendant and the same was

disposed. Again filed similar application is not maintainable. With these observations this court has answer the point No.1 in the Negative.

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

O R D E R

I.A.No.III u/Order-7 Rule-11
r/w.Sec151 of C.P.C., filed by the learned
counsel for the defendant is hereby
dismissed with cost of Rs.500/-

(Dictated to the Typist and transcribed by her, Order corrected and signed by me, then pronounced by me in the Open Court on this the 18th day of June-2022).

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

Order pronounced in open court

(Vide Separate Order sheet)

O R D E R

I.A.No.III u/Order-7 Rule-11
r/w.Sec151 of C.P.C., filed by the learned
counsel for the defendant is hereby
dismissed with cost of Rs.500/-

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