



**IN THE COURT OF THE III ADDL. CIVIL JUDGE AND JMFC,
KANAKAPURA**

**Present: Sri. Raviprakash T. Avin
B.B.A, LL.M.,**

**III Addl. Civil Judge and J.M.F.C.,
KANAKAPURA.**

Dated: This the 3rd day of June, 2026

OS No.232/2018

PLAINTIFF:

1. Smt. Sannamma,
W/o Bhadragirigowda,
Aged about 65 years,
2. Smt. Vedavathi,
D/o Late C. B .Byrappa,
Aged about 35 years,
3. Sri. Kantharaju,
S/o Late C. B. Byrappa,
Aged about 28 years,
4. Sri. Kiran,
S/o Late C. B. Byrappa,
Aged about 26 years,
5. Smt.Jayasheela,
W/o Late. C. B. Byrappa,
Aged about 48 years,



All are residing at:
Chaknahalli Village,
Kasaba Hobli,
Kanakapura Taluk,
Ramanagara District.

Vs

- DEFENDANTS :**
1. Smt. Thimmamma,
W/o Muniyappa @ Kempegowda,
Aged about 60 years,
Since died, her LRS
who are the Defendant No.2
and 3 who are already on record.
 2. Sri.Kariyappa,
S/o Muniyappa@Kempegowda,
Aged about 69 years,
 3. Smt. Gowramma,
D/o Muniyappa@Kempegowda,
Aged about 45 years,

All are residing at
Chakanahalli Village,
Kasaba Hobli,
Kanakapura Taluk,
Ramanagara District



IA No. 7

APPLICANT/

DEFENDANT No.2 & 3:

2. Sri.Kariyappa,
S/o Muniyappa@Kempegowda,
Aged about 69 years,
3. Smt. Gowramma,
D/o Muniyappa@Kempegowda,
Aged about 45 years,

Both are residing at
Chakanahalli Village,
Kasaba Hobli,
Kanakapura Taluk,
Ramanagara District

Vs

OPPONENT/PLAINTIFFS:

1. Smt. Sannamma,
W/o Bhadragirigowda,
Aged about 65 years,
2. Smt. Vedavathi,
D/o Late C. B .Byrappa,
Aged about 35 years,



3. Sri. Kantharaju,
S/o Late C. B. Byrappa,
Aged about 28 years,
4. Sri. Kiran,
S/o Late C. B. Byrappa,
Aged about 26 years,
5. Smt.Jayasheela,
W/o Late. C. B. Byrappa,
Aged about 48 years,
All are residing at:
Chaknahalli Village,
Kasaba Hobli,
Kanakapura Taluk,
Ramanagara District.

ORDER ON IA No.7

I	Provision under which application is filed	Order VII Rule 11 of CPC
ii	Relief sought for	Rejection of Complaint.
iii	The date on which application is filed	13.11.2025



iv	No of the application	IA. VII
V	The date on which objections are filed by the Plaintiffs	Objection not filed
vi	The date on which orders were passed	03.06.2026

IA No. 8**APPLICANT/****PLAINTIFFS:**

1. Smt. Sannamma,
W/o Bhadragirigowda,
Aged about 65 years,
2. Smt. Vedavathi,
D/o Late C. B .Byrappa,
Aged about 35 years,
3. Sri. Kantharaju,
S/o Late C. B. Byrappa,
Aged about 28 years,



4. Sri. Kiran,
S/o Late C. B. Byrappa,
Aged about 26 years,
5. Smt.Jayasheela,
W/o Late. C. B. Byrappa,
Aged about 48 years,
All are residing at:
Chaknahalli Village,
Kasaba Hobli,
Kanakapura Taluk,
Ramanagara District.

Vs

OPPONENT/

DEFENDANTS:

1. Smt. Thimmamma,
W/o Muniyappa @ Kempegowda,
Aged about 60 years,
Since died, her LRS
who are the Defendant No.2
and 3 who are already on record.
2. Sri.Kariyappa,
S/o Muniyappa@Kempegowda,
Aged about 69 years,



3. Smt. Gowramma,
D/o Muniyappa@Kempegowda,
Aged about 45 years,

All are residing at
Chakanahalli Village,
Kasaba Hobli,
Kanakapura Taluk,
Ramanagara District

ORDER ON IA No.8

I	Provision under which application is filed	Order XXIII Rule 1(3) read with 151 of CPC
ii	Relief sought for	Seeking to withdraw the suit with liberty to file fresh suit
iii	The date on which application is filed	02.12.2025
iv	No of the application	IA. VIII
V	The date on which objections are filed	16.12.2025



	by the Defendants	
vi	The date on which orders were passed	03.06.2026

ORDER ON IA No. 7 and 8

The Defendants have filed I.A. No.7 under Order VII Rule 11 R/w Section 151 of CPC seeking rejection of plaint on the ground that this Court lacks pecuniary jurisdiction to entertain the suit.

2. Subsequent to filing of the above application the Plaintiffs have filed I.A. No.8 under Order XXIII Rule 1(3) of the Code of Civil Procedure seeking permission to withdraw the suit with liberty to institute a fresh suit.

3. Prior to filing these applications the Plaintiff had also filed I.A. No. 4 to 6 seeking seeking amendment of the plaint by incorporating certain facts which were not originally pleaded and for temporary injunctions, respectively.

4. However as the question of jurisdiction goes to the root of the matter that is competence of this court to entertain the



suit, the same will have to be considered first and as the relief of withdrawal of the suit is inter connected, IA No. 7 and 8 are considered together.

5. The Defendants in the affidavit accompanying application have stated that the suit schedule properties as on the date of the filing of the suit value Rs. 14,71,250/- and have produced gazette notification stating Sub-Registrar value in support of the same. Therefore have prayed to reject the plaint.

6. The Plaintiff has not filed objections to the said application.

7. The Plaintiffs in the affidavit accompanying their application seeking to withdraw the suit with liberty to file fresh suit on the same cause of action have stated that they have already filed application seeking amendment and if the plaint is returned the same will have to be presented before the competent court and then seek for amendment. Therefore to avoid the same have sought for withdrawal of the suit as stated above.



8. Heard the learned counsel appearing for both sides and perused the records.

9. The Defendants have filed detailed objections to the application however stating the same here is not necessary.

10. As on the date of suit the pecuniary jurisdiction of this court was upto Rs. 5,00,000/-, however as per the gazette notification published on 28.03.2016 produced by the Defendant along with memo dated 02.06.2026 1 Acre land in Kerulalasandra Village as on the date of suit is valued at Rs. 5,50,000/-. On consideration of the pleadings, the valuation disclosed in the plaint and the said notification this Court is satisfied that the suit is beyond the pecuniary jurisdiction of this Court as on the date of the filing of the suit. Consequently, this Court is not competent to try and dispose of the suit.

11. Once it is found that this Court lacks pecuniary jurisdiction, the proper course is not rejection of the plaint but return of the plaint for presentation before the Court having competent pecuniary jurisdiction under Order VII Rule 10 of



the Code of Civil Procedure. Therefore the Defendants are not entitled for the relief of rejection of plaint.

12. The Plaintiffs have sought permission to withdraw the suit with liberty to institute a fresh suit on the ground that there are defects in the plaint and that certain facts were not pleaded. The Plaintiff has also filed a separate application seeking amendment of the plaint for incorporation of such omitted facts.

13. The omission to plead certain facts does not constitute a mere formal defect within the meaning of Order XXIII Rule 1(3)(a) of CPC. The liberty contemplated under Order XXIII Rule 1(3) is not intended to enable a party to avoid the consequences of defective pleadings, improve its case, or institute a fresh suit incorporating facts which were omitted in the original plaint. The fact that an amendment application has already been filed by the Plaintiffs seeking incorporation of such facts further demonstrates that the alleged defect is not a formal defect of the nature contemplated under Order XXIII Rule 1(3) of CPC.



14. Further, once this Court has found that it lacks pecuniary jurisdiction, the Code itself provides the remedy of return of plaint for presentation before the competent Court. The Plaintiffs will be at liberty, upon presentation of the plaint before the competent Court, to pursue such remedies as are available in law, including any application for amendment. Therefore, no grounds are made out for granting permission to withdraw the suit with liberty to institute a fresh suit.

15. In view of the finding that this Court lacks pecuniary jurisdiction, this Court does not consider it appropriate to adjudicate upon the merits of the application seeking amendments or temporary injunctions. The same is left open to be considered by the Court before which the plaint is presented after return. Therefore this court proceeds to pass the following;

ORDER

IA No. 7 filed under Order VII Rule 11 read with Section 151 of CPC is hereby partly allowed.



The plaint along with all documents shall be returned to the Plaintiffs under Order VII Rule 10 of CPC for presentation before the Court having competent pecuniary jurisdiction on 08.06.2026.

The prayer seeking rejection of plaint is hereby dismissed.

I.A. No.8 filed by the Plaintiffs under Order XXIII Rule 1(3) of CPC seeking permission to withdraw the suit with liberty to institute a fresh suit is hereby dismissed.

No order as to costs.

Office shall comply with the requirements of Order VII Rule 10 of CPC and return the plaint after retaining copies in accordance with law.

***III Addl. Civil Judge and JMFC,
Kanakapura.***