



**IN THE COURT OF II ADDL. CIVIL JUDGE & J.M.F.C AT  
KANAKAPURA**

**Dated this 31<sup>st</sup> Day of July 2025**

**Present: Sri.Vinay .V. Kundapur B.A.L , LL.B.,  
II Addl.Civil Judge & JMFC,  
Kanakapura.**

**O.S. No.320/2021**

**PLAINTIFF :** Smt. Gowramma

***/Vs/***

**DEFENDANTS :** Sri. Chandregowda and others.,

**PARTIES IN IA No. V**

**APPLICANT :** Sri. Chandregowda ....Defendant No.1

***V/s***

**OPPONENT :** Smt. Gowramma .....Plaintiff



## **ORDER ON APPLICATION FILED UNDER ORDER 7 RULE 10 & 10(A) OF CODE OF CIVIL PROCEDURE**

The present application U/o 7 Rule 10 & 10(A) of CPC filed by the defendant No.1 for return the plaint to the plaintiff with direction to file the same suit before competent court of law in the interest of justice.

2. In the accompanying affidavit, the defendant No.1 has stated that, the above suit filed by the plaintiff seeking declaration and such other reliefs in respect of the suit schedule property. It is submitted that, as suit schedule property is a site and house property as plaintiff herself admitted, whether it is illegally constructed or legally constructed has to be determined after full-fledged trial by the Hon'ble court. I further submits that suit schedule property falls under gramatana and it is not an agricultural land as such it value is high, court fee calculated as agricultural land. And Mobile tower in the premises and the value of the suit schedule property is more than



Rs.15,00,000/- (Fifteen Lakhs). Hence the plaintiff ought to have calculated the ad valorem court fee on the market value of the same.

The defendant No.1 further submit that, the plaintiff has filed the above suit before this Hon'ble court to declare that she is the owner of the entire suit schedule property. It is submitted that suit schedule property is all that piece and parcel of the 0.05 Guntas land and in that portion a house and mobile tower also situated. But the plaintiff has not fall under the pecuniary jurisdiction of this Hon'ble court, the plaint may be returned to the plaintiff by directing her to file the same before the Principal Senior Civil Judge. Therefore, the Court may kindly return the plaint to the plaintiff in the interest of justice and equity.

**3.** On the contrary, plaintiff has filed the objection to the application and contended that, the application is not maintainable either in law or on facts. The suit schedule property is an agricultural land measuring 0.05 guntas in Sy No.175/2 of Kadahalli Village,



Sathanur Hobli, Kanakapura Taluk, the plaintiff has produced the RTC / Pahanies from the year 1969-70 to 2020-21 as on the date of filing of the above suit along with the plaint, and also the plaintiff has now produced the RTC / Pahanies of 2021-22 and 2022-23 for kind perusal of this Hon'ble Court. He further submits that, she has produced the letter dated 27.10.2016 issued by the Panchayath Development Officer, Kadahalli Grama Panchayath Development Officer, Kadahalli Grama Panchayath sent to the Executive Officer, Taluk Panchayath Office, Kanakapura stating that the site in Sy No. 175/2 measuring 0.05 guntas does not come under the jurisdiction of the said Grama Panchayath. The said letter is Document No.20 in the list of documents filed along with the plaint.

The defendant No.1 further submits that, the plaintiff's daughter made an application under RTI to the Panchayath Development Officer of Kadahalli Grama Panchayath and in response to it the Panchayath Development authority has furnished information



to the effect that the said Grama Panchayath has not given any permission for formation of site. The said document is filed as Document No.27 with the list of documents filed along with plaint. He further submits that, as per the Government Guideline value published in the Karnataka Gazette the market value of the land in Sy No.175 of Kadahalli village was Rs.5 lakhs per acre. The suit schedule property is only 0.05 guntas as per the Government guidelines value for 0.05 guntas it comes to Rs. 62,500/- and accordingly the suit is valued at the said market value and court fee is paid accordingly. Therefore, the suit falls within the pecuniary jurisdiction of this Hon'ble Court and this Court has jurisdiction to try the suit. Certified copy of the Guideline value of the Government is produced herewith for kind perusal of this Hon'ble Court.

The defendant No.1 further submits that, he has filed the application only with an intention to harass the plaintiff and there is no merits worth considering in the application. He is a trespasser,



illegally occupied the plaintiff's property and has tried to change the nature of the property by creating documents and unauthorisedly put up construction and erected Cell Tower without any permission from the competent authority. All other averments which are not specifically traversed herein are hereby specifically denied as false. The plaintiff will be put to untold hardship and loss if the application is allowed. Whereas no hardship or loss will be caused to the Defendant No.1 if the application is dismissed. Hence, on the above said ground plaintiff prays to reject the application filed by the defendant.

**4.** Heard, both sides and perused the records.

**5.** The following points that arise for my consideration are:-

1. Whether the plaint liable to be returned under Order 7 Rule 10 of C.P.C. ?
2. What Order ?

**6.** My findings in the above points are as under;



**Point No.1 : In the Negative,**  
**Point No.2 : As per Final Order**  
**for the following;**

**REASONS**

7. **Point No.1-** The plaintiff has filed this suit against the defendants for declaration and consequential reliefs.
  
8. After service of summons the defendant No.1 appeared through his counsel and filed written statement and filed present application U/o 7 Rule 10 of CPC seeking to return the plaint with direction to file the said suit in competent court. The main contention of the defendant No.1 is that, the suit is not maintainable, the instant suit is filed for declaration and consequential relief pertaining to the schedule property bearing Sy.No.175/2 measuring 0.05 guntas is a agricultural land and not come under gramatana. Further submits there is mobile tower in the suit schedule property and value of the suit schedule properties more than 15 lakhs. On the other side the



plaintiff denied the allegation made by the application and contended that on the date of filing the suit the market value of the property in Kadahalli is Rs. 5 lakh per acre. The suit schedule property measures 0.05guntas, according to the market value it come under Rs. 62,500/-. As per the market value the plaintiff paid court fee. The suit schedule property come under jurisdictional of this court. Hence prays to dismiss the application filed by the defendant No.1. In support of in contention the plaintiff filed document with regard to the suit schedule property.

9. The law relating to return of plaint is well settled, when court finds that, there is lack of jurisdiction to try the suit then court can at any point of time return the plaint to the plaintiff. At this juncture it is necessary to rely upon the decision rendered by the Hon'ble Supreme Court in the case of **Machinenfabric rieter ag and another V/s Tex Tec Industries (India) PVT 2021** has held as under:-



***“Materials which may be considered to sustain and justify an order of return of plaint when application filed under Order 7 of Rule 10 of CPC, must be determined solely in terms of what is averred in the plaint and not on what plaintiff pleads in appeal or in some other suit”.***

**10.** Before passing any order with regard to this application, it is necessary to know about the said provisions.

**Order VII Rule 10 of C.P.C.** reads as under:-

***Return of plaint - The plaint shall be return in the following cases:-***

***(i) Subject to the provision of Rule 10(A) of CPC the plaint schedule at any stage of the suit be returned to be present to the court in which the suit should have been instituted .***

**11.** The application filed U/o 7 Rule 10 & (A) of CPC, to be considered only on the basis of plaint and accompanying documents to adjudicate the present application. On perusal of the plaint and documents it shows that plaintiff filed a present suit within the jurisdiction of this



court. On due perusal of the documents and submission made by the both parties. This Court thinks that, when the value of the suit is exceeds the pecuniary jurisdiction of the Court then, the Court can return the plaint. But the defendant not satisfied the court that on what ground court has to return the plaint to the plaintiff. Therefore, the grounds made out by the defendant No.1 in the above application are not sufficient to allow the same. Hence this point No.1 is answered in the **Negative**.

**12. Point No.2**:- In view of finding on Point No.1, this Court proceed to pass the following;

**ORDER**

**IA filed by the defendant No.1 U/o 7  
Rule 10 & 10(A) of CPC is hereby dismissed.**

**Under the circumstances of the case,  
no order as to cost.**

*(Dictated to the stenographer directly on computer, print out taken by her, then corrected and pronounced by me in the open court on **31<sup>st</sup> Day of July 2025**).*



**(VINAY .V. KUNDAPUR)**  
**II Addl. Civil Judge & JMFC.,**  
**KANAKAPURA**



(Order pronounced in open court vide separate order)

**ORDER**

IA filed by the defendant No.1 U/o 7 Rule 10 & 10(A) of CPC is hereby dismissed.

Under the circumstances of the case, no order as to cost.

**II Addl. Civil Judge & JMFC.,  
KANAKAPURA**

***Call on 23.09.2025***

**II Addl. Civil Judge & JMFC.,  
KANAKAPURA**