



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

Dated this 24th Day of September 2025

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

O.S. No.201/2023

PLAINTIFF : Smt. Anitha

V/s

DEFENDANTS : Sri. Marigowda and others.,

PARTIES IN IA

APPLICANT : Smt. Ningamma ..Defendant No.5

V/s

OPPONENT : Smt. Anitha ...Plaintiff

**ORDER ON APPLICATION FILED UNDER ORDER
7 RULE 11(a) to (d) R/W SEC 151 OF C.P.C.**

This is an application filed by the defendant for rejection of the plaint on the ground of the plaint does not disclose any cause of action and barred by law of limitation, non-joinder of the proper party to the proceedings and there were no any sale consideration amount paid by the



plaintiff to the D.1 to D.4, hence the suit of plaintiff bound to be rejected, in the interest of justice and equity.

2. In the accompanying affidavit, the defendants submits that the plaintiff has filed this suit for partition and separate possession and such other relief. The defendant No.5 submit that the plaintiff has filed a false case by creating a story with the intention to grab the money in an illegal manner from the defendants on this belated hence the present suit is bound to be rejected with cost. Further she submit that, the plaintiff herein got married long back and after marriage, the schedule property was purchased by her by paying valuable consideration to the vendor in the year 2000, based on registered sale deed revenue records were transferred in her name, she was enjoyed the property being an absolute owner till it was sold to defendant No.6 to 8, in the year 2023.

Further she submit that, the schedule property in question was herself acquired property, she got the right to sell it to anybody during her lifetime alone, however as a demand made by defendant No.6 to 8, for the namesake, the other parties name has been inserted in the sale deed for the year 2023. She submit that, the plaintiff has not arrived/made party to the proceedings, other vendors 1 to 4, in the suit nor the plaintiff has



arrived at other joint family immovable properties in the suit for seeking partition hence the prayer sought by the plaintiff is part I and not a whole, it is hit under order 2 rule 2 of CPC, so also a suit of the plaintiff is bound to be dismissed non-challenge of the plaintiff for the year 2000 which stands in her name, as such the suit of the plaintiff bound to be reject holding that there is no cause of action barred by limitation and non-payment of proper court fee to maintain the suit.

Further she submit that, this suit was filed by using a criminal mind along with a local area person by the name of B.L. Umesh, was is a resident of Bhoohalli village, in a falsification manner nothing else to put a hardship to the bonafide purchaser as well as her and with an intention to grab the money from the defendants, hence the plaint of the plaintiff is bound to be rejected on this alone ground. The defendant submits plaintiff has intentionally and knowingly undervalued the suit schedule property and also they not complied with the provision of section 24(d) of Karnataka Court Fees and Suit Valuation of Act. The defendant submit that, it is admitted fact of the plaintiff that the scheduled property in question was under the occupation of D-6 to D-8, now how can the plaintiff say that she is in physical possession of the SSP and prove the plea the plaintiff has



produced non of the records that is Mutation, RTC, Krishi passbook or sale of any agricultural product and photo CD to prove that she is alleged to be in physical possession of the property, the fact is that none of the material document produced by the plaintiff along with plaint, hence by mere making allegation is not sustainable either in law or fact of the case hence it is bound to be rejected with cost.

3. On the contrary, plaintiff has filed the objection to the application and contended that, she has filed the above suit for the relief of partition and separate possession of her legitimate 1/5th share over the suit schedule property. The plaintiff has come to know the alleged sale transactions of the defendants in respect of the suit schedule property during May 2023 only and therefore, immediately after come to know the said alleged sale transactions the plaintiff has filed the present suit within time. The application filed by the defendant No.5 is highly misconceived, frivolous, vexatious and the said application has been filed by her with malafide intention to harass the plaintiff and also to drag on the proceedings of the above case.

The plaintiff further submits the defendant NO.5 has filed present application to reject the plaint for the reason that, there is no cause of action, barred by limitation and non-joinder of proper party to the



proceedings. The averments made by the defendant No.5 in the affidavit in support of her application, are totally false and the same are hereby specifically denied as false and the defendant No.5 is put to strict proof of the same in the trial of the above case. The defendant No.5 has filed the present application only with an intention to harass the plaintiff and also to drag on the proceedings.

Further plaintiff has clearly stated in the plaint that, the cause of action arose during the month of May 2023 when the plaintiff came to know the alleged sale deed executed by the 1st defendant in favour of 5th defendant and subsequent sale deed dated 08.02.2023 executed by the 5th defendant in favour of the defendant No.6 to 8 and subsequently when the defendant No.6 to 8 claimed the right over the suit schedule property and also when they tried to alienate the said property in favour of the parties. All the averments stated by the 5th defendant in her affidavit annexed to the present application are to be proved by the 5th defendant in the evidence of the above case and without trial, these facts cannot be proved by either side. But the 5th defendant with an intention to defeat, deprive and defeat the share of the plaintiff, has filed this application, which is not maintainable either under law or on facts and hence, the same is liable to be dismissed. Hence the present application filed by the defendant No.5 is



not maintainable and same is liable to be dismissed. Hence the plaintiff prays for dismiss the application with exemplary cost.

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 rejected U/o 7 Rule 11 (a) to (d) R/W Section 151 of CPC ?
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 the partition and separate possession.

After service of summons the defendant appeared through his counsel and filed written statement and filed present application U/o 7 Rule 11 (a) to (d) R/w Sec.151 of CPC seeking to reject the plaint. The main contention of the defendant is that, the suit is not maintainable, the instant suit is filed for partition and separate possession. Further submits that suit



has to be valued on the subject matter of the suit and also there is no cause of action and suit is barred by law of limitation and suit is bad for non-joinder of necessary parties. On the other hand plaintiff submits that the said facts to be decided by the court during the trial.

8. The law relating to rejection of plaint is well settled. For rejection of plaint, only the averments in the plaint have to be looked into and written statement of the defendant cannot be considered. At this juncture it is necessary to rely upon the decision rendered by the Hon'ble Supreme Court in the case of **Soumik Sil Vs. Subhas Chandra Sil** 2015 SCC 732 has held as under:-

"Materials which may be considered to sustain and justify an order of rejection of plaint, 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".

The same view was taken by the Hon'ble Apex Court in the case of **AIR 2013 SC 3912** as under:-

"In order to consider an application under Order 7 Rule 11, the Court has to scrutinize the averments /pleas in the plaint. At that stage case of the defendant in the written statement are wholly irrelevant as the application for



rejection of the plaint has to be decided only on the averments of the plaint”.

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

Order VII Rule 11 of C.P.C. reads as under:-

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 undervalued 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 properly 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.

10. The application filed U/o 7 Rule 11 (a) to (d) R/w Sec.151 of CPC, can be considered when there is no cause of action, if the suit barred by law, any other grounds stated therein, then only plaint can be rejected. In the present suit grounds made out in the affidavit is that the suit is not maintainable for the reason that the plaintiff filed false suit against the



defendant and the suit schedule property is a self acquired property of Defendant NO.5 and suit is bad for non-joinder of proper party. On due perusal of the documents and submission made by the both parties, the grounds made out by the defendant in the above application are not sufficient to allow the same. Moreover for rejection of plaint, already in the averment in the plaint have to be looked into and written statement of the defendant can not be taken for the consideration. Hence this point No.1 is answered in the **Negative**.

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

ORDER

**IA filed by the defendant U/o 7 Rule
11 (a) to (d) R/W Section 151 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 **24th Day of September 2025**).*

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





(Order pronounced in open court vide separate order)

ORDER

IA filed by the defendant U/o 7 Rule 11 (a) to
(d) R/W Section 151 of CPC is hereby dismissed.

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

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