



**IN THE COURT OF THE ADDITIONAL SENIOR CIVIL JUDGE &
J.M.F.C., AT:MAGADI.**

DATED : THIS THE 1st DAY OF JUNE, 2026

**Present: Sri. Shivakumar R., B.A., LL.B.,
Addl. Senior Civil Judge & JMFC., MAGADI.**

O.S.No.564/2022

Plaintiff : Smt. Jyothi,
W/o. Yogindra,
D/o. Late. M. S. Karibasappa,
R/at: No.35, Moksha Nilaya,
Behind Apoorva Hospital,
Near Old Railway Gate,
Chikkabanavara,
Hesarghatta Road,
Bangalore – 560 090.

(By **Sri. H.S.R.** Advocate)

---V/s---

Defendants : 1. Smt. Shruthi,
Aged about 34 years,
W/o. Girish B. A.,
D/o. Late. M. S. Karibasappa,
R/at: No.2900, Ward No.9,
Behind Basavanna Temple,
Hosapete, Magadi Town,
Magadi Taluk,
Ramanagara District.

2. Smt. Swapna M. K.,



W/o. N. Renukaprasad,
D/o. Late. M. S. Karibasappa,
Aged about 38 years,
R/at: No.66, Renuka Nilaya,
2nd Main Road, 1st Stage,
A.G.B. Layout, Mahalakshmpura,
Bangalore – 560 086.

3. Sri. Girish B. A.,
S/o. J. C. Annaiah Swamy,
Aged about 43 years,
R/at: No.2900, Ward No.9,
Behind Basavanna Temple,
Hosapete, Magadi Town,
Magadi Taluk,
Ramanagara District.

(D1 to 3 by **Sri. N.K. Advocate**)
(D2 by **Sri. A.S.P. Advocate**)

Parties to I.A.No.4

Applicants : Smt. Shruthi & Anr., (D1& 3)

V/S.

Opponent : Smt. Jyothi

ORDER ON IA No.4

The defendant No.1 & 3 have filed I.A.4 U/O.VII R.11(a) to
(d) r/w. Sec.151 of C.P.C., 1908 and r/w. Sec.14 & 15 of Hindu
Succession Act, Section 58 & 64 of Limitation Act, 1963 prayed for
be pleased to reject the plaint in the interest of justice.



2. The I.A., supported with the affidavit of the defendant No.1. It is stated in the affidavit that, the plaintiff has filed the above suit for partition, separate possession, declaration and permanent injunction and other reliefs in respect of the suit schedule properties. The plaintiff has filed the suit for partition with false allegations and by clever draft and without any locus standee and made several prayers which are barred under Section 14 and 15 Of Hindu Succession Act, Section 58, 64 of Limitation Act 1963. The suit is not maintainable either on law or on facts, the plaintiff approached this court without clean hands, the suit is barred by limitation and hit by Section 14 and 15 Of Hindu Succession Act as admitted by the plaintiff in the plaint averments. Hence to avoid the precious time of this court and false and bogus litigation for illegal gain, the defendants are filing the accompanying application to reject the plaint.

3. It is further stated that, the plaintiff or 2nd defendant have no locus standee to file the present suit, as the suit properties are not the joint family or ancestral properties of plaintiff and



defendants. The plaintiff has to pay the court fee as per section 35(1) of Karnataka Court fee Act as the plaintiff and 2nd defendant are not in possession of the suit properties along with the defendants in any manner at any point of time. Hence the court fee paid on the plaint is not sufficient. She has to pay the proper court fee on the market value of the suit properties. The plaintiffs filed this false suit by suppressing the material facts and came before this Court without clean hands, the suit of the plaintiff is collusion with 2nd defendant and their respective husbands. Further there is no cause of action to file the suit. Hence on this ground alone the suit is liable to be dismissed as well as all interim applications.

4. It is further stated that, the defendant No.1 is the absolute owner in possession of item No.1 to 3 of the suit schedule property and having all the records in her name and defendant No.3 is the absolute owner in possession of the item No.4 and 5 of the suit schedule properties and having all the records in his name and the said defendants used to pay the tax to the concern government department.



5. It is further stated that, as per Para No.6 of the plaint averments, the item No.1 to 4 properties have been acquired by M.N.Suma W/o M.S.Nagaraju under a registered partition deed dated: 06.11.2006 which is undisputed facts and admitted by the plaintiff in her plaint. Item No.1 of the suit property wrongly mentioned Kaneshumari No.260/245/203 instead of 266/245/203. Further item No.1 and 4 are one property as per the partition deed dated 6-11-2006 which is registered as document no. 2202/06-07 at Magadi Sub-Registrar office. The Item No.2 and 3 are one property as per the said registered partition deed. The item No.1 to 4 properties are the B Schedule properties in the said partition deed. The A schedule properties fallen to the share of H.L Poornachandra and C schedule property fallen to the share of M.S.Sulochana. As per the said partition the respective shareholders have become the owners of their shares and got transfer all the records to their individual names. However the properties standing in the name of H. L. Poornachandra have become the joint properties of her and her daughters i.e. herself



and defendant No.1 and 2, the shareholders used to reside separately from each other. Even though M.N.Suma residing separately, she used to treat her as her daughter because she used to serve all the requirements of M.N.Suma until her death. The defendant No.1 was very close to the said M.N.Suma. The plaintiff or 2nd defendant were not good touch with M.N.Suma as they are residing at Bengaluru with their families. Further the item No.5 of the property acquired by her through the help of her maternal home. The same has been acquired by her under a sale deed dated 24-11-2001 registered as document No.2015/2001-02. Hence the item No.5 of suit property has not been included in the partition. By virtue of the partition deed and sale deed, the said M.N.Suma has become the absolute owner as per Section 14 of Hindu Succession Act. Even though all the records were standing in the name of M.N.Suma and H.L.Poornachandra prior to partition in respect of properties mentioned in the partition, after the partition all the documents have been mutated in individual names as per partition. Since it is an admitted fact in the plaint, the plaintiff or defendant



No.2 have no locus standi to question the said facts. The plaintiff and defendants are not class one legal heirs to the said M.N.Suma. The suit properties have become the self-acquired properties of said M.N.Suma as per the said provision.

6. It is further stated that, the plaintiff father has acquired the property No.25, PID No.34-93-25 situated at 4th cross, B and ASO layout, Railway lane, pipeline, Hampinagara, Bengaluru during his life time, after his death, the plaintiff defendants No.1 and 2 and H.L.Poornachandra have become the joint owners in respect of the said property too. However, this property also not mentioned in the partition deed dated 6-11-2006, but the plaintiff has not included this property in the present suit partition as she stated alleged in the plaint that there is joint family is existing. These facts suppressed by the plaintiff. Hence the suit is bad for none joinder of necessary properties as well parties. In the above said partition, H.L.Poornachandra has gifted this property to plaintiff Jyothi under a Gift deed dated 8-12-2008 registered as document No. 1246/2008-09 at Vijayanagara Sub-Registrar Office



Bengaluru.

7. It is further stated that, after the partition the plaintiff and 2nd defendant and H.L.Poornachandra, M.S.Sulochana have never ever take care of the M.N.Suma. However, the defendant No.1 and her husband used to take care of the said M.N.Suma until her death. The said M.N.Suma used to reside separately in her properties fallen to her share. This being the case, due to need of funds she has sold the item No.4 and 5 properties to 3rd defendant under two sale deed dated:4-8-2013 and 28-11-2013 which are registered document No.3856/2013-14 and 5911/2013-14 at Magadi Sub-Registrar office and received Rs.3,00,000/- and Rs.3,30,000/- from the 3rd defendant as sale consideration and delivered the possession of said items to 3rd defendant and by virtue of the said documents, the 3rd defendant has become the absolute owner in possession of said items and got transferred all the records to his name and paying tax to the municipality Magadi. The plaintiff, 2nd defendant, Poornachandra, Sulochana and 2nd defendant husband were/are well aware about the ownership of 3rd



defendant over the said items and they never ever questioned the same during the life time of M.N.Suma and up to middle of 2022. Hence now the plaintiff has no locus standi to question the said sale deeds after lapse of 9 years as per section 58 of Limitation act.

8. It is further stated that, after the above said two sale deeds also, the said M.N.Suma was very cordial with 1st defendant and 3rd defendant and used to get help from each other. Hence the said M.N.Suma had lot of love and affection on defendant No.1 and 3rd defendant. This being the case in the year 2020-21 she has suffered from heart/kidney related issues. However, she was very strong mentally and had sound state of mind. This being the case, she died in the year 2021 during the covid-19 pandemic leaving behind a Will dated 5-10-2020 and by virtue of the said Will, the defendant No.1 has become the absolute owner in possession of the said item as per Section 14 of Hindu Succession Act. Based on the said Will dated 5-10-2020 registered as document No.97/2020-21 at Magadi Sub-Registrar office the defendant No.1 got mutated all the records to her name and paying the tax. The plaintiff, 2nd



defendant and their respective husbands, Poornachandra were well aware about the Will and documents standing in the name of 1st defendant. But they have colluded with each other and created false story only to get the property illegally. Either during the life time of M.N.Suma or immediately after the death of Suma, the plaintiff or any other persons have never ever challenged the sale deeds and Will till middle of 2022. Hence there were some misunderstandings arise among the Poornachandra, plaintiff and defendants regarding the properties of their family. As per section 14 of Hindu Succession Act, M.N.Suma had every right to sell her properties, accordingly has disposed the properties in the above said manner. During her life time, the plaintiff or 2nd defendant had never raised any question regarding the 3rd defendant sale deed. But after her death, they colluded with each other and filed false and vexatious suits for illegal gain. During her life time or after her death, the plaintiff and 2nd defendant had never in joint possession of the suit properties along with the defendants. Hence she has to pay the court fee on the market value of the suit properties



regarding her alleged share. But not paid the same. Hence the suit is liable to be rejected on this count also.

9. It is further stated that, the defendant No.1 is the absolute owner in peaceful/lawful possession of all the piece and parcel of the Properties bearing No.296/273/233 AND 266/245/203 measuring jointly east to west 43 feet and north to south 30 feet and totally 1290 square feet and situated at Narasimha Circle, Magadi Town and Taluk, Ramanagara District, consisting RCC roofed building i.e., ground Floor, First Floor with all civic amenities and Municipal Kaneshumari No.60/1112/1052/1113/1053//1114/1054 measuring east to west 47 feet and north to south 31 feet situated at Aralepete, Magadi Town and Taluk, Ramanagara District consisting houses.

10. It is further stated that originally the Property No.266/245/203 measuring east to west 14 feet and north to south 30 feet and totally 420 Sq Ft and situated at Narasimha Circle, Magadi Town and Taluk, Ramanagara District, belongs to the father of the defendant No.1. After his death, plaintiff and



defendants No.1 and 2 and Poornachandra had become the joint owners in joint possession of the said property. After the death of the father of the defendant No.1, the Property bearing No.296/273/233 measuring east to west 29 feet and north to south 30 feet and totally 1290 square feet and situated at Narasimha Circle, Magadi Town and Taluk, Ramanagara District has fallen to their share under a registered partition Deed dated 6-11-2006 along with other properties. There was no partition taken place among the legal heirs of Karibasappa in respect of properties derived from the partition deed and other property which were standing in the name of the father of the defendant No.1.

11. It is further stated that, the father of defendant No.1 has purchased property No.25, PID No.34-93-25 situated at 4th cross, B and ASO layout, Railway lane, pipeline, Hampinagara, Bengaluru during his life time, after his death, the said property has not been included in the above partition deed and the said property has given to plaintiff under a Gift deed dated 8-12-2008. Due to the said gift deed, the said plaintiff Jyothi has executed a



release deed in favour of her mother Poornachandra in respect of all her undivided rights over other properties derived from partition and from her father. The said release deed dated 23-12-2008.

12. It is further stated that, the said Poornachandra has gifted a property situated at Aralepete, Magadi Town and Taluk in favour of the defendant No.1 under a gift deed dated 12-4-2013 registered as document No.519/13-14 at Magadi Sub-Registrar office. By virtue of this deed, all the records have been mutated in her name and she is enjoying the same as absolute owner. It is further submitted that, the said Poornachandra has executed a gift deed dated 17-7-2021 in favour of Swapna another sister in respect of a property No.56 of Donnenahalli village, Tavarekere Hobli, Bengaluru south Taluk and this property was acquired by the Poornachandra with the help of defendant No.1. Due to this gift deed, the said Swapna (2nd defendant) has executed a release deed dated 2-8-2021 in favour of the defendant No.1 and Poornachandra in respect of property left. The defendant No.1 paid Rs.35,00,000/- to Swapna for execution of said release deed by way of Cheque



No.00331, dated: 2-8-2021.

13. It is further stated that, on 11-8-2021 a MOU was entered in to among the defendant No1, 2nd defendant and plaintiff. In this deed all the above said transactions have been mentioned. As on the date of this deed, the said Jyothi and Swapna have taken their shares through the gift deeds and released all their rights in favour of the defendant No.1 and Poornachandra in respect of all other joint family and ancestral properties. By virtue of the said documents, the defendant No.1 and Poornachandra have become the joint owners in joint possession of Properties bearing No.296/273/233 AND 266/245/203. Hence the Properties bearing No.296/273/233 AND 266/245/203 and they have become the joint owners of the said property, but the Khatha is continuing in the name of Poornachandra in respect of said property.

14. It is further stated that, the said Poornachandra has executed a release deed dated 11-8-2021 in favour of Properties bearing No.296/273/233 AND 266/245/203 in respect of all the remaining properties and released all her undivided rights/shares



in the property bearing No.296/273/233 AND 266/245/203 in favour of the defendant No.1 by taking Rs.2,00,000/- as consideration as well as shifted the burden of rent security deposit. Which is registered as document No.77/2021-22 in book No.4 at Magadi Sub-Registrar office and delivered her undivided ownership and possession of said property in favour of the defendant No.1. By virtue of this release deed, the defendant No.1 became the absolute owner in possession of the said property.

15. It is further stated that, in the month of June 2022 the KSHIP (GOVT) has issued notification to acquire the properties around the property bearing No.296/273/233 AND 266/245/203 to form the wide road and also there is ever chance to grant huge compensation to the property owners. On came to know the said information the said plaintiff, 2nd defendant and their respective husband and Poornachandra have colluded with each other and planned to get back the property from the defendant No.1 by dispossessing from the said property and also started to give torture to her and her husband to return the said property to the



said Poornachandra. The respondents have given false police complaints against the defendants to get back the said property. Before lodging the complaint, based on the instigation of other daughters the said Poornachandra has filed an injunction suit in OS No.238/2022 before Civil Court Magadi against the defendants in respect of release property. Thereafter they filed a petition before the Assistant Commissioner Ramanagara Sub Division under senior Citizen Act in [Misc.CR.No.11/2022-23](#). In the said case, the defendants have appeared and opposed the said case and prayed for dismissal of the said case based on the above said facts and documents. When, the defendant No.1 brought to the tribunal notice regarding the civil suits, by that time, the tribunal has instructed the Poornachandra to get the remedy in the civil view of civil suits. The said petition came to be allowed and the defendants filed an appeal before Ramanagara Deputy Commissioner and the said impugned order set aside, now the mother of defendant No.1 has filed a writ in the Hon'ble High Court which is pending for adjudication.



16. It is further stated that, the plaintiff has filed the present suit against the defendants on collusion to harass the defendants and to get the property illegally and made false allegations, only to pressurize to return the release property to the said Poornachandra, the present suit filed. The plaintiff approached this court without clean hands. Hence, this I.A.

17. The copy of I.A., was served to the other side. The plaintiff has filed the detailed statement of objections and resisted the I.A., filed by the defendant No.1 & 3 and reiterated the plaint averments and interalia contended that, at the outset the application filed by the defendant No.1 and 3, which is devoid of merits and lack of bonafides is neither sustainable both under law and facts and the same is liable to be rejected / dismissed in limine. The plaintiff further contended that, the plaint being the joint family members of the 1st defendant the plaintiff is entitled to 1/3rd share right and interest in the suit schedule properties as per Sec.15(2) of Hindu Succession Act. The plaintiff is in constructive possession of the suit schedule properties. The



schedule properties are inherited by the plaintiff and defendants.

18. The plaintiff further contended that, the defendants are enjoying suit schedule properties in collusion with the defendant and they are liable to pay a mesne profit of enjoyment of the same to this plaintiff. The defendants taking advantage of the stay of the plaintiff, at the cause title address to enrich themselves they are attempting to alienate the schedule properties infavour of third parties to deprive of the plaintiff's for their legitimate shares in the properties of which they are entitled to.

19. The plaintiff further contended that, on 22/7/2022 the plaintiff came to know that the defendants are making hectic attempts to sell the schedule properties to some third parties without giving any shares to the plaintiffs in the joint family properties. The joint family had also a lot of movables like gold ornaments, silver articles, vessels, household articles, and implements. But no share is given to the plaintiff. It is respectfully contended that, that the defendant No.1 and 3 have suppressed the true and material facts and by way of misinterpretation of the



settled legal propositions, so also by confusing regarding the legal aspects and the plaint averments, they have come up with the above vexatious application seeking rejection of the plaint and thus, the application filed by the defendant No.1 and 3 will not survive for consideration and the same is liable to be dismissed / rejected. It is relevant to state that upon perusal of the vague application filed by the defendant No.1 and 3 invoking the provisions of Order 7 Rule 11(a) to (d), the same is not at all applicable to the present case, in view of the fact that admittedly and undisputedly the suit filed by the plaintiff is for the relief of partition and separate possession claiming her legitimate 1/3rd equal share in respect of the suit schedule properties and also for the relief of declaration of suspicious, nominal and fraudulent Will dt.05.10.2020 and for other consequential relief/s.

20. The plaintiff further contended that, it is well settled legal proposition that while deciding the applications under the provisions of Order 7 Rule 11(a) to (d), the Courts have to look in to the only plaint averments, but not the averments made in the



written statement or the contentions taken in the affidavit filed in support of the application filed under Order 7 Rule 11(a) to (d) and all the contentions / statements of the defendant No.1 and 3 are narrated by misleading the actualities in the affidavit or in the written statement cannot be looked in to. The application filed by the defendant No.1 and 3 is false, the frivolous and filed with misconception of law and facts and the same are liable to be rejected / dismissed. The defendant No.1 and 3 have not made out any grounds to reject the plaint. On the other hand, the statements/grounds urged by the defendant No.1 and 3 are nothing but misleading the actual facts and misinterpretation of the legal aspects. For all these grounds, the plaintiff prays for to reject the aforesaid I.A., with exemplary cost.

21. Heard arguments of both sides. The counsel for the plaintiff has relied upon the following decisions;

- i). Civil Appeal No.2582 of 2010 between K. C. Laxmana V/s. K. C. Chandrappa Gowda & Anr.,



ii). Civil Appeal No. 4623 of 2005 between S. R. Srinivasa & Ors., V/s. S. Padmavathamma.

iii). Civil Appeal No.8172 of 2009 between Dhani Ram (died) through L.Rs., & Ors., V/s. Shiv Singh.

iv). Civil Appeal No. Diary No.32601 of 2018 between Vineeta Sharma V/s. Rakesh Sharma & Ors.

v). R.F.A.No.916 of 2014 C/W. R.F.A.No. CROB. 8 of 2019 (PAR) between Padmavathi & Anrs., V/s. Smt. Jayamma & Ors.,

22. On perusal of the materials placed on record, the following points would arise for my consideration are :

1) Whether the defendant No.1 & 3 have made out sufficient grounds in I.A.No.4 to reject the plaint?

2) What Order?

23. My findings on the above points are as follows :

Point No.1: In the Negative,

Point No.2: As per the Order,

for the following:



REASONS

24. **POINT NO.1:** On perusal of the materials available on record, admittedly the plaintiff has filed the present suit against the defendants for the relief of partition, separate possession and declaration in respect of suit schedule properties. Before advertng to the factual matrix of the interim application, it is just and necessary to keep in mind the law laid down regarding Order VII Rule 11 of CPC, which reads as follows :

11. 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 provision of Rule 9.

25. It is urge of the defendant No.1 & 3 that, there is no cause of action to file the above suit. The Court fee paid by the plaintiff is insufficient and also suit of the plaintiff is barred by limitation.

26. On the other hand, it is the urge of the plaintiff that, the annexed application filed by defendant No.1 & 3 to reject the plaint on the grounds of no cause of action, barred by law and insufficient court fee is liable to be rejected on the ground that, suit instituted by the plaintiff is very much maintainable and the same is to be adjudicated by full-fledged trial considering question of law and bar by law and court fee. And factum of suit being barred by law would be mixed question of fact and law and bar by law is triable issue. The cause of actions is bundle of facts. The plaintiff has filed this



suit for the relief of partition by disclosing the full cause of action well within the time.

27. Admittedly, the plaintiff has filed this suit against the defendants for the relief partition, separate possession and declaration in respect of the suit schedule properties. The defendant No.1 & 2 have filed the instant I.A., for rejection of plaint stating that there is no cause of action to file the above suit and also suit of the plaintiff is barred by limitation and Court fee paid by the plaintiff is insufficient. It is well settled preposition of law that, while considering the application under Order VII Rule 11 of the CPC, the court has to consider the averments made out in the plaint, but not the averments made out in the written statement. At this juncture, I would like to refer the decision of the Hon'ble Apex Court of India between **Salim Bai and others Vs. State of Maharashtra and others**, the same is reported in **(2003) 1 SCC 557**, wherein the Hon'ble Apex Court pleased to held that:

For the purpose of constituting under Order VII Rule 11 of CPC, the averments made out in the plaint alone should be germane and plea taken in the



written statement or in the I.A., would be wholly irrelevant.

28. It is relevant to note that, the foremost contention urged by the defendant No.1 & 3 to reject the plaint on the ground that, there is no cause of action to file the above suit. It is undisputed fact that, the suit schedule properties were allotted to the share of M. N. Suma under the partition. It is also undisputed fact that, the said M. N. Suma and her husband has no issues. It is undisputed facts that, the plaintiff and defendants are the daughters of Karibasappa, the said Karibasappa is none other than the brother-in-law of M. N. Suma. In the plaint pleadings, in the first instant the plaintiff has pleaded that, the plaintiff and defendants are the foster children of said M. N. Suma and further pleaded in paragraph No.9 & 10 of the plaint that, the said M. N. Suma was died intestate on 21.03.2021 and further pleaded that, subsequent to the death of M. N. Suma the plaintiff and defendants being the surviving successors as contemplated under Class-II heirs of the Hindu Succession Act have jointly succeeded to the suit schedule properties and left behind by M. N. Suma and they have been



continued in joint possession and enjoyment of the suit schedule properties. On careful perusal of the plaint averments, it discloses the cause of action is pleaded by the plaintiff at para No.15 of the plaint. The probability of said cause of action is sufficient to reject the I.A. filed by the defendant No.1 & 3. It is to be noted that, the cause of action means nothing but a bundle of facts. Whether there is a cause of action to file a suit or not, it can be considered after conclusion of trial, but not at this stage. At this juncture, I would like to refer the decision rendered by the Hon'ble Apex Court of India in the case of **State of Orissa Vs. Kiockner and Co., and others**, the same is reported in **AIR 1986 SCC 2140**, wherein the Hon'ble Supreme Court of India has clearly held that:

There is a distinction between the plea that, there was no cause of action for the suit and the plea that, plaint does not disclose any cause of action and rejection of the plaint on the ground that, plaintiff has no cause of action is not proper'.

In the instant suit, keeping aside all the rival contentions, the plaintiff mainly disputed the Will, which was



executed by M. N. Suma in favour of defendants. In the present suit on hand, the main issue involved with regard to the genuineness, validity of the Will, the same has to be considered at the time of full fledged trial.

29. The defendant No.1 & 3 have taken another contention in the instant I.A., that, the suit of the plaintiffs is barred by Limitation. The Hon'ble Apex Court of India in time and again in catena of Judgments held that, while considering the application under Order VII Rule 11 of C.P.C., the plaint cannot be rejected on the ground that, the suit is barred by Limitation. With regard to limitation is concerned, it is a mixed question of Law and facts, it can be considered after full fledged trial, but not at the time of considering the I.A., under Order VII Rule 11 of C.P.C. The defendant No.1 & 3 have also taken contention that, the suit of the plaintiff is hit by the Section 14 & 15 of Hindu Succession Act. It is to be noted that, whether the suit of the plaintiff is hit by Section 14 & 15 of Hindu Succession Act or not cannot be adjudicated at this stage while deciding the application under Order VII Rule 11 of



C.P.C., the same may be considered at the time of final adjudication of the matter.

30. The defendant No.1 & 3 have taken another contention that, the Court fee paid by the plaintiff is insufficient. On perusal of the materials placed on record, the plaintiff has filed this suit against the defendants for the relief of partition, separate possession and declaration. As per the plaint pleadings, the plaintiff pleaded that, the plaintiff and defendants are in joint possession of the suit schedule properties. On perusal of the Valuation Slip furnished by the plaintiff, it disclosed that, the plaintiff has calculated the Court fee under Section 35(2) of KCF & SV Act. Accordingly, the Court fee of Rs.225/- is paid of plaintiff 1/3rd share in respect of the suit schedule properties. For the relief of declaration is concerned, the plaintiff has paid Rs.25/-. Hence, the Court fee paid by the plaintiff is sufficient. At this stage, the defendant No.1 & 3 have not made out any valid grounds to reject the plaint. Therefore, the I.A., filed by the defendant No.1



& 3 is devoid of merits. For considering all these reasons, I answer Point No.1 in the '**Negative**'.

31. **POINT NO.2** : In view of my findings on Point No.1, I proceed to pass the following :

ORDER

I.A.No.4 filed by the defendant No.1 & 3 under Order U/O.VII R.11(a) to (d) r/w. Sec.151 of C.P.C., 1908 and r/w. Sec.14 & 15 of Hindu Succession Act, Section 58 & 64 of Limitation Act, 1963 is hereby rejected on cost of Rs.500/-.

(Dictated to the Typist directly on the computer, typed by her, corrected by me and then pronounced in the open court on this the **1st day of June, 2026.**)

(Shivakumar R.)
Addl. Sr. Civil Judge & JMFC.,
Magadi.