



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

DATED : THIS THE 11th DAY OF FEBRUARY, 2026

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

O.S.No.312/2025

Plaintiff : Smt. R. Suryakala

(By Sri. B.R.V., Advocate)

--V/s--

Defendants : Smt. B. Jayamma & Ors.,

(By Sri. M.K.M., Advocate)

Parties to I.A.No.3

Applicants : Smt. B. Jayamma & Ors.,

V/S.

Opponents : Smt. R. Suryakala

ORDER ON IA No.3

The defendants have filed I.A.3 U/O.VII R.11(a) & (d) of C.P.C., to reject the plaint on the ground that, the suit is not disclosing the cause of action and same being barred by Law.

2. The I.A., supported with the affidavit of the defendant



No.4. It is stated in the affidavit that, the plaintiff has suppressed the material facts and filed false suit for the relief of Partition against defendants in respect of the schedule properties. The plaintiff is a stranger and not concerned with the stridhana properties of 1st defendant – Smt. Jayamma.

3. It is further stated that, schedule A and B properties are the sthridhana properties of 1st defendant – Smt. B. Jayamma W/o. R. Dasegowda. The 1st defendant – Smt. B. Jayamma has purchased schedule A and B properties by a registered sale deed dated 06.11.1975 from Hosa Ramaiah @ Bheemanna S/o. Venkatashamaiah for a valuable consideration. In pursuance of the sale deed dated 06.11.1975 the 1st defendant has changed the khatha of the schedule A and B lands and cultivating those lands by growing Arecanut and Coconut groves. The 1st defendant was paying tax on the schedule A and B lands. The 1st defendant – Smt. B. Jayamma out of her love and affection towards 2nd defendant - R. Geethanjali and 4th defendant - Smt. Rekha Jagannath has executed a Gift Deed on 09.02.2007 jointly in their name and the said Gift deed was registered before the Sub-Registrar, Magadi.



4. It is further stated that, the 2nd defendant and defendant No.4 in pursuance of the Gift deed dated 9-2-2007 have got the khatha transferred in their names and paying tax jointly on the schedule lands. The defendants No.2 and 4 after the Gift deed, are in possession and enjoyment of the schedule A and B properties. They are riping fruits from the Arecanut and coconut groves.

5. It is further stated that, the suit lands are not the joint family or ancestral properties of R. Dasegowda. The plaintiff and the other family members are not having right or share over the schedule lands exclusively acquired by 1st defendant Smt. B. Jayamma and those properties are her sthridhana properties. The plaintiff has no locus standi to file the suit for partition in respect of the sthridhana properties of 1st defendant – B. Jayamma. The suit of the plaintiff is barred by law.

6. It is further stated that, on 09-04-2007 there was a registered partition among R. Dasegowda and his children Smt. R. Suryakala, Smt. R. Geethanjali and Smt. Rekha Jagannath. In the said registered partition deed R. Dasegowda has collected



Rs.1,90,000/- towards his share as schedule A and B Schedule properties bearing Sy.No.143/4 measuring 1 acre 11½ guntas, situated at Thalekere, Thippasandra Hobli, Magadi Taluk was allotted to the share of Smt. R. Suryakala, Smt. R. Geethanjali and Smt. Rekha Jagannath jointly. In pursuance of the partition dated 9-4-2007 all the divided members of the family got the khatha transferred in their name. They have sold the land bearing Sy.No.143/4 measuring 1 acre 11 1/4th guntas, situated at Thalekere, Thippasandra Hobli, Magadi Taluk jointly in the name of Smt. Vedavathi W/o. D. R. Srinivas by an absolute sale deed dated 3-12-2018. In view of the partition dated 9-4-2007, sale deed dated 3-12-2018 plaintiff is estopped from claiming any share from other family members.

7. It is further stated that, R. Srinivasa Gowda and his wife Smt. K. Vijayalakshmi have executed a Release Deed on 28-8-2006 by collecting cash amount towards his share. The plaintiff by suppressing the material facts and concealing several facts has filed false suit for partition and also seeking cancellation of the Gift Deed executed by 1st defendant on 9-2-2007 in the name of 2nd and



4th defendant jointly in respect of the schedule A and B properties. The plaintiff has no right of any kind to question the Gift deed dated 9-2-2007 executed by 1st defendant in respect of her sthridhana property in the name of defendant No.2 and 4. The said transaction between 1st defendant and defendant No.2 and 4 was in respect of the exclusive self acquired and sthridhana property of 1st defendant. Plaintiff has no locus standi to question the Gift Deed executed by 1st defendant in the name of defendant No.2 and 4.

8. It is further stated that, the suit of the plaintiff is barred by law and it has no cause of action. The plaintiff who is aware of the ownership of 1st defendant B. Jayamma has intentionally and deliberately filed the suit for partition in respect of the sthridhana properties of 1st defendant. Hence, this I.A.

9. 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 defendants. In the statement of objections the plaintiff has denied all the averments made in the accompanying affidavit to aforesaid I.A., and interalia contended that, the application filed by the defendants seeking relief to reject the plaint



is not maintainable either in law or on facts and the same is liable to be dismissed in limine. The defendants have no right, title or possession over the suit schedule property and has created a false story and created a false documents only to harass the plaintiff and to knock off her property. The plaintiff has good case on merits to urge before this Court on merits. The plaintiff has prima-facie case and the balance of convenience is also is in favour of plaintiff. Hence, the defendants are not entitled for any relief's, much less the relief sought in the application. The defendants have filed false application only to harass the plaintiff and to knock off her valuable property. If the application is rejected, no harm or injuries will be caused to anybody. On the other hand, if the application is allowed the plaintiff will be put to irreparable loss or injury. For all these grounds, the plaintiff prays for to reject the aforesaid I.A., with exemplary cost.

10. Heard arguments of both sides. The plaintiff counsel to support of his arguments he has relied upon the following citations;



(I) 2017(5) Supreme Court Cases 345 (Kuldeep Singh Pathania Vs. Bikram Singh Jaryal).

(ii) AIR 2020 Supreme Court 2721 (M/S. Shakthi Bhog Food Industries Ltd., VS the Central Bank of India).

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

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

2) What Order?

12. 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

13. **POINT NO.1:** On perusal of the materials available on record, admittedly the plaintiffs have filed 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.

14. It is urge of the defendants that, the suit schedule properties are not the joint family properties of plaintiff and



defendants. The suit schedule properties are the Sthridhana properties of the defendant No.1, she has acquired the same by virtue of the registered Sale Deed dated: 16.11.1975. It is further submitted that, due to love and affection towards 2nd and 4th defendant, the defendant No.1 has executed the Gift Deed dated: 09.02.2007 jointly in favour of defendant No.2 & 4 herein and they are in possession of the same and further submitted that, there was a registered partition among his children. Therefore, there is no cause of action to file the above suit and the suit of the plaintiff is barred by Law.

15. On the other hand, the plaintiff has contended that, the defendants have no right, title or possession over the suit schedule properties and has created false story and created a false documents only to harass the plaintiff and to knock of her property.

16. 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



defendants 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 plaintiffs is barred by limitation. 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.

17. It is relevant to note that, the foremost contention urged by the defendants to reject the plaint on the ground that, there is no cause of action to file the above suit. On careful perusal of the plaint averments, it discloses the cause of action is pleaded by the plaintiff at para No.14 of the plaint. The probability of said cause



of action is sufficient to reject the I.A. filed by the defendants. 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 referred 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'.

18. The defendants have taken another contention in the instant I.A., that, the suit of the plaintiff is barred by Law. The main contention of the defendants that, the suit schedule properties are the Stridhana properties of defendant No.1, she has acquired the same by virtue of the sale deed dated: 06.11.1975.



The case of the plaintiff is that, the suit schedule properties are the joint family properties of plaintiff and defendants. It is to be noted that, at this stage the defendants have not produced the registered sale deed dated: 06.11.1975 to show that, the defendant No.1 has purchased the suit schedule properties and the same are her stridhana property. In the absence of the same, its hold no water in the eye of Law. At this stage the rights of the parties cannot be adjudicated, it needs full fledged trial. The defendants have not stated in their application that, the suit of the plaintiff in which is barred. In the absence of the same, the defense taken by the defendants at this stage is not tenable in the eye of Law. At this stage, the defendants have not made out any valid grounds to reject the plaint. Therefore, the I.A., filed by the defendants is devoid of merits. For considering all these reasons, I answer Point No.1 in the '**Negative**'.

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

ORDER

I.A.No.3 filed by the defendants under Order VII



Rule 11(a & d) of CPC 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 **11th day of February, 2026.**)

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