



**IN THE COURT OF II ADDL.CIVIL JUDGE & JMFC,
AT MAGADI**

SMT.RANJITHA G.B, B.B.A, LL.B (Hons.)
II Addl.Civil Judge and JMFC, Magadi

Dated this 11th day of August, 2025

OS No.292/2024

PLAINTIFF : Sri.Venkatesh
S/o Late.Mariyappa,
Aged about 58 years,
R/at Boganapalya,
Bachenahatti Village,
Magadi Taluk,
Ramanagara District.

-V/s-

DEFENDANTS :1. Sri.Munirajayya
S/o Late.Munirangayya & Honamma
Aged about 62 years,

2. Sri.B.M Narasegowda
S/o Late.Munirangayya & Honamma
Aged about 58 years,

3. Sri.Rangappa
S/o Late.Munirangayya & Honamma,
Aged about 68 years,

4. Sri.Krishnappa
S/o Late.Munirangayya & Honamma
Aged about 60 years,

All are R/at Boganapalya,
Bachenahatti Village,
Magadi Taluk, Ramanagara-562120.

**IA No.III****APPLICANT/****DEFENDANTS No.1 to 3 :** Sri.Rangappa & Others**-V/s-****OPPONENT/****PLAINTIFF :** Sri.Venkatesh

i	<i>Provision under which the application is filed</i>	<i>Order VII Rule 11(b) read with Sec.151 of C.P.C.</i>
ii	<i>Relief sought for</i>	<i>Rejection of plaint</i>
iii	<i>The date on which the application is filed</i>	<i>20.03.2025</i>
iv	<i>Number of the application</i>	<i>IA No.III</i>
v	<i>The date on which the objections are filed by different opponents</i>	<i>24.04.2025</i>
vi	<i>The date on which the orders were passed on the said application</i>	<i>11.08.2025</i>

**II Addl.Civil Judge & JMFC,
Magadi****ORDER ON IA No.III FILED BY THE DEFENDANTS
No.1 to 3 UNDER ORDER VII RULE 11 (b)
READ WITH SEC.151 OF C.P.C.**

This application is filed when the summons is issued to Defendant No.4. The Defendants No.1 to 3 have filed this application under Order VII Rule 11(b) read with Sec.151 of C.P.C, seeking to reject the plaint.



2. The Plaintiff has filed the present suit seeking for the relief of Declaration, Permanent Injunction & Recovery of Possession as against the Defendants. In support of IA No.III, the Defendant No.3 has filed an affidavit and stated that, the suit schedule property along with property bearing Sy.No.25, measuring to an extent of 5 acres 35 guntas are the self acquired properties of children of Sri.Kariyappa, out of which, they have sold an extent of 2 acres 37 ½ guntas in favour of mother of the Defendant No.3 vide Sale Deed dated 16.01.1981.

3. When such being the situation, without knowledge of the Defendants, the Plaintiff and his brothers have got phoded the property bearing Sy.No.25/2, measuring to an extent of 2 acres 37 ½ guntas and based on the said document, the partition was effected on 01.09.2021. Thereafter, the Plaintiff and his brother have filed an application to conduct hudbasth, for which, ADLR have issued the notice to the Defendants, Plaintiff and his brother. Thereafter, without the knowledge of the Defendants, ADLR had prepared the report and stated that, out of 1 acre 2 ½ guntas, 7 ½ guntas is an encroached portion. The Defendants have filed an application on 06.07.2024, seeking to cancel the said illegal phodi. On 19.07.2024, the Defendants, the



Plaintiff and his brother have showed their enjoyment in Sy.No.27. Thereafter, the report was filed stating to cancel the phodi in Sy.No.25/1, 2, 3 & 4 and based on the said report, the Defendants have not encroached any property.

4. The khata pertaining to the suit schedule property is jointly standing in the name of Plaintiff and his brother and this suit is filed seeking for the relief of declaration and recovery of possession. Therefore, the separate Court fee has to be filed. Further, the Plaintiff has only filed the Court fee to an extent of 7 ½ guntas, but, this suit is filed for 1 acre 2 ½ guntas. The suit schedule property and the property mentioned in the valuation slip are not tallying each other. The value of 1 acre of property is about Rs.24,00,000/-. Therefore, the value of the suit schedule property is Rs.25,50,000/-. Hence, this Court is not having jurisdiction to try the present suit. If this application is not allowed, the Defendants No.1 to 3 will be put to hardship and on the other hand, no hardship will be caused to the Plaintiff, as he can always contest the matter on merits. Hence, prayed to allow the application.

5. The Plaintiff had filed objection and contended that, ingredients of order VII Rule 11(b) of CPC is not enumerated in an affidavit filed along with an application.



When an application is filed under Order VII Rule 11 of CPC, the Court should only considered the averments of the plaint and not the defence taken by the Defendants in his written statement. In order to prove the case of the Plaintiff, the evidence of Plaintiff is very much necessary. An averments of the plaint as to be read as a whole to find out whether the suit is barred under any law. At this stage, the averments of the written statement is wholly immaterial.

6. This is a suit for Declaration and Recovery of Possession and when the Defendants have failed to hand over the encroached portion to the Plaintiff, that itself is a cause of action to file this suit. Therefore, the present suit is not barred by any law. Further, the valuation shown in the plaint in respect of 07.08 guntas is valued at Rs.50,000/-. The valuation regarding the jurisdiction of the Court is with respect to the land bearing Sy.No.25/4, measuring to the total extent of 1 acre 02.08 guntas, out of which, 07.08 guntas is in dispute. Therefore, the Plaintiff had valued the disputed extent at Rs.50,000/-. The suit schedule property is an agricultural property and it is valued as per Sec.7 of the Karnataka Court Fees and Suit Valuation Act, 1958. Hence, the valuation made by the Plaintiff is correct. The Defendants have not made out any grounds to allow the application. The only intention of



the Defendants is to drag on the proceedings and to kill the precious time of this Court. If this application is allowed, the Plaintiff will be put to hardship and the same cannot be compensated in terms of money. Hence, prayed to reject the application.

7. Heard both sides. Perused the material on record.

8. In order to prove the contention of the Plaintiff, he has relied on the following decisions:

1. Civil.Appeal No.4665/2021 between Srihari Hanumandas Totala V/s Hemant Vithal Kamat & Others

2. Civil.Appeal No.8518/2002 between Saleem Bhai and Others V/s State of Maharashtra and Others

3. Civil.Appeal No.4003/2014 between Soumik Sil V/s Subhas Chandra Sil

9. This Court arises the following Points for consideration:

1. Whether the application filed by the Defendants No.1 to 3 under Order VII Rule 11(b) read with Sec.151 of CPC deserves to be allowed?

2. What order?

10. The findings to the above points are as follows:

Point No.1: In the **“Negative”**

Point No.2: As per final order, for the following:



REASONS

11. **POINT No.1:** The Defendants No.1 to 3 have filed this application under Order VII Rule 11(b) read with Sec.151 of C.P.C, seeking to reject the plaint.

12. As per the contention of the Defendants No.1 to 3, without knowledge of the Defendants, the Plaintiff and his brothers have got phoded the property bearing Sy.No.25/2, measuring to an extent of 2 acres 37 ½ guntas and based on the said document, the partition was effected on 01.09.2021. Thereafter, the Plaintiff and his brother have filed an application to conduct hudbasth, for which, ADLR have issued the notice to the Defendants, Plaintiff and his brother. Thereafter, without the knowledge of the Defendants, ADLR had prepared the report and stated that, out of 1 acre 2 ½ guntas, 7 ½ guntas is an encroached portion. The khata pertaining to the suit schedule property is jointly standing in the name of Plaintiff and his brother and this suit is filed seeking for the relief of declaration and recovery of possession. Therefore, the separate Court fee has to be filed. Further, the Plaintiff has only filed the Court fee to an extent of 7 ½ guntas, but, this suit is filed for 1 acre 2 ½ guntas. The suit schedule property and the property mentioned in the valuation slip are not tallying each other. The value of 1 acre of property is about Rs.24,00,000/-.



Therefore, the value of the suit schedule property is Rs.25,50,000/-. In order to prove the contention of the Defendants No.1 to 3, they have produced the document such as gazette notification.

13. Per contra, the Plaintiff had contended that, this is a suit for Declaration and Recovery of Possession and when the Defendants have failed to hand over the encroached portion to the Plaintiff, that itself is a cause of action to file this suit. Therefore, the present suit is not barred by any law. Further, the valuation shown in the plaint in respect of 07.08 guntas is valued at Rs.50,000/-. The valuation regarding the jurisdiction of the Court is with respect to the land bearing Sy.No.25/4, measuring to the total extent of 1 acre 02.08 guntas, out of which, 07.08 guntas is in dispute. Therefore, the Plaintiff had valued the disputed extent at Rs.50,000/-. The suit schedule property is an agricultural property and it is valued as per Sec.7 of the Karnataka Court Fees and Suit Valuation Act, 1958. The Defendants have not made out any grounds to allow the application. To prove the contention of the Plaintiff, he has produced the documents such as notice dated 15.02.2025 issued in Rev.P.6/2024-25.

14. It is pertinent to note that, the power under Order VI Rule 11 read with Sec.151 of CPC, can be exercised only by looking into the averments stated in the plaint and not



the averments of the written statement. Therefore, at this stage, the documents produced by both the parties cannot be taken into consideration. Further, the Defendants No.1 to 3 have contended that, the Plaintiff has not valued the suit properly and this Court is not having pecuniary jurisdiction to try the suit. It is pertinent to note that, only based on the ground that, the suit is not properly value the power under Order VII Rule 11(b) cannot be exercised because Court fee can be paid even after pronouncing the judgment. Moreover, the question of paying of proper Court fee involves the matter of trial and at this stage without conducting proper enquiry, the plaint cannot be rejected on that ground alone. With due respect, the decisions relied by the Plaintiff are not applicable to the present case on hand, as the facts and circumstances are different. By considering the above reasons, this Court is of the opinion that, the Defendants No.1 to 3 have not made out sufficient grounds to allow the application. Hence, this Court proceeds to answer Point No.1 in the “**Negative**”.

15. **POINT No.2:** In view of the aforesaid reasons, this Court proceeds to pass the following:

ORDER

IA No.III filed by the Defendants No.1 to 3
under Order VII Rule 11(b) read with Sec.151



of CPC, is hereby rejected with cost of
Rs.500/-.

(Dictated to the Stenographer, directly through computer & corrected by me and then pronounced in open Court on this 11th day of August, 2025)

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