



**THE COURT OF ADDL. SENIOR CIVIL JUDGE & JMFC,
GUBBI.**

PRESENT

**SMT. POORNIMA K. YADAV, B.A.LL.B., LL.M.,
Addl. Sr. Civil Judge & JMFC, Gubbi.**

Dated on this the 04th day of August, 2026

ORIGINAL SUIT NO. 264/2025

Plaintiff/s : 1. Ningamma
W/o Late Ramalingaiah,
Aged about 80 years,
R/at Thonachanalli,
Chelur Hobli,
Gubbi Taluk.

2. Basavaraju
S/o Late Manjaiah,
Aged about 34 years,
R/at Thonachnalli,
Chelur Hobli,
Gubbi Taluk.

(By. Sri. K.S.M, Adv.)

Vs.

Defendant/s : Mahadevaiah,
S/p Late Channappa,
Aged about 52 fyeras,
R/at Puttaravuthanahalli,
Chelur Hobli,
Gubbi Taluk.

(By Sri.G.H.S., Adv.,)

PARTIES TO I.A.NO.III

Applicant/ Defendant : Mahadevaiah,

**V/S**

Opponents/ Plaintiffs : Ningamma and Another

Provision under the Application	Under Order 7 Rule 11(a), and (d) of CPC
Application Relief sought for	For rejection of plaint
The date of the application is filed	13.10.2025
Interlocutory Application Number	III
Date of objection filed by the plaintiff	08.01.2026
Date of orders passed	04.08.2026

Sd/-
(POORNIMA K. YADAV)
Addl. Senior Civil Judge &
JMFC, Gubbi.

: ORDERS ON I.A.NO.III:

The defendant along with written statement, filed the present application.

- 2.** The defendant through his counsel filed this application Under Order 7 Rule 11(a) and (d) of Code of Civil Procedure seeking to reject the plaint as no cause of action and as barred by law.



3. The application is accompanied with the affidavit of the defendant, wherein it is stated that, the plaintiffs have filed this suit against the defendant seeking relief of declaration of title and permanent injunction. This defendant filed suit in OS No. 238/2011 with respect to the suit schedule property against the plaintiffs and their co-parcenars seeking relief of declaration of title and recovery of possession on the file of Additional Civil Judge and JMFC, Gubbi. The said suit was decreed in favour of this defendant and the plaintiffs and their co-parcenars were directed to vacate and hand over the possession of the suit schedule property to this defendant. The judgment and decree of OS No. 238/2011 was adjudicated in RA No.17/2022 and RSA No. 620/2024. As such there is no cause of action for the plaintiffs to file this suit. The present suit schedule property which was subject matter of OS No. 238/2011 is adjudicated on 28.02.2022. As such there is no limitation to file this suit. This suit is filed



only with mala fide intention to harass the defendant and cause hurdle for execution of decree in Execution No. 13/2022 on the file of Additional Civil Judge and JMFC, Gubbi. Hence sought to allow the application.

4. On the other hand, the counsel for the plaintiff filed objection and contended that the application is not maintainable and it is liable to be rejected. It is contended that the present application is filed seeking for rejection of plaint on point of limitation on the basis of decree of OS No. 238/2011. But the boundaries of the present suit schedule property and the boundaries of the defendant are different and it does not tally with the boundaries of the suit schedule property. The defendant in his written statement paragraph number 4 has admitted the boundaries mentioned in paragraph number 5 of the plaint as true. The plaintiff no. 1 Ningamma is not party to the suit in OS No. 238/2011 and execution proceedings of Execution petition No. 13/2022. It is further contended



that the plaintiffs got darkasth sketch of Survey No. 29/13 for plaintiff no. 1 and Survey No. 29/1B for plaintiff no. 2 each measuring 0.28.08 guntas. As such the grounds urged by the defendant seeking for rejection of plaint is not applicable to this case. The plaintiffs have filed this suit seeking relief of declaration of title and permanent injunction. As such, it is the duty of the plaintiffs to prove their case. The plaintiffs must be given an opportunity to prove their case and if the plaint is rejected it will lead to denial of justice. Hence sought to reject the application.

5. Heard both the counsel.
6. Upon hearing and based upon materials available on record, the points that arise for my consideration are:
 1. **Whether there are grounds for rejection of plaint on the ground as no cause of action and barred by law?**
 2. **What order ?**
7. My findings to the above points are as under;



Point No.1: In the Affirmative.

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

: R E A S O N S :

8. **Point No.1 :** It is settled principles of law that for considering the application seeking for rejection of plaint, the court must only look into the plaint averments.
9. The plaint averments disclose that husband of plaintiff no. 1 and grandfather of plaintiff no. 2 acquired the suit schedule property under registered sale deed dated 25.01.1988 executed by Smt. Mangamma with respect to land bearing Survey No. 29/1B measuring 4 acres including karab of 1 acre 6 guntas i.e. the suit schedule property. As per the sale deed, the property sold is bounded on East by Pattarvuthanahalli border, West by land of Abdul Nabi, North by land of Peersab and South by land of Mangamma and Government Karab. They pleaded that in the sale deed the property number was



wrongly mentioned as Survey No. 29/1B instead of Survey No. 39/1B as such, another sale deed was executed in favour of husband of plaintiff no. 1 by Smt. Mangalamma on 02.09.1988 and the boundaries mentioned in the previous sale deed was mentioned in the second sale deed. Land bearing Survey No. 29 is situated at Thonachanahalli Village, which is about 30 acres, wherein the husband of the plaintiff and 5 other members are cultivating the lands by filing applications to the government for grant of their lands. And they are carrying on cultivation for more than 50 years including the suit schedule property. The plaintiffs and their uncles were cultivating upto 5 acres 35 guntas of land for more than 50 years. As such they filed application seeking for grant of land. The defendant purchased 4 acres of land from one Shivanna on 11.11.1999 and the sale deed of the defendant shows the boundaries as East by Tonachanahalli border and land of Gowramma wife of Ningaraju, West by land of Govt. and M. H. Thimmarayappa, North by land of Late Siddappa



Sons and Shivarudraiah and others and South by land of Ramalingaiah and Survey No. 29/1. As per the grant certificate of the said Shivanna vide SR No. 191/1962-63 the boundary is mentioned as East by Survey No. 29 remaining land, West by Survey No. 29/2 block., North by Survey No. 28 and South by Survey No. 29 remaining land. This shows that land bearing Survey No. 29 Block No. 3 was granted in the year 1962-63. In the year 1999 the defendant purchased the property from the said Shivanna considering the boundaries mentioned above. The boundaries in the suit filed by the present defendant in OS No. 238/2011 is mentioned as East by border of Toanachanahalli and land of Gowramma, West by Land bearing Survey No. 29/3 of M. H. Thimma Rayappa, North by Land Survey No. 29/4 (Defendants remaining property) and South land of defendant. The defendant mentioned uncertain boundaries in the said suit. And the boundaries mentioned in the grant certificate and the sale deed of the defendant are different and they do not tally with survey



hissa book. That apart the survey number mentioned is also wrong. The defendant obtained decree by giving wrong survey number i.e. granted survey number is 29 block 3 and the sale deed of the defendant is survey number 29 block 4. There is boundary dispute between the plaintiff and the defendant with regard to 1 acre 10 guntas as the defendant stated that it is encroached by the plaintiffs and their brothers towards the southern side. This shows that plaintiffs have grown coconut trees aged 20 years. As such the husband of plaintiff no. 1 purchased the adjacent property measuring 4 acres. Hence the plaintiff's husband and their brothers are cultivating portion of Land Survey No. 29 for more than 50 years. The plaintiffs have constructed their house in the suit schedule property for more than 35 years and they are residing in the said property with their children. The defendant purchased his land during 1999-2000. The defendant is trying to grab the developed property of the plaintiffs on the basis of hudbasth sketch without durasth sketch which is an



important document to identify the property which is in existence in more than 30 acres of land. The defendant is claiming his rights over 1 acre 10 guntas of land on the southern side of the suit schedule property and the said property was cultivated by the husband of the plaintiff. On the said grounds, the plaintiff sought for declaration of their title of ownership over the suit schedule property and consequential relief of permanent injunction.

- 10.** The defendant sought for rejection of plaint on the ground that he had filed suit in OS No. 238/2011 with respect to the suit schedule property against the plaintiffs and their co-parcenars seeking relief of declaration of title and recovery of possession on the file of Additional Civil Judge and JMFC, Gubbi. The said suit was decreed in favour of this defendant and the plaintiffs and their co-parcenars were directed to vacate and hand over the possession of the suit schedule property to this defendant. The judgment and decree of OS No. 238/2011 was adjudicated in RA



No.17/2022 and RSA No. 620/2024. As such there is no cause of action for the plaintiffs to file this suit. The present suit schedule property which was subject matter of OS No. 238/2011 is adjudicated on 28.02.2022. As such there is no limitation to file this suit. This suit is filed only with mala fide intention to harass the defendant and cause hurdle for execution of decree in Execution No. 13/2022 on the file of Additional Civil Judge and JMFC, Gubbi.

- 11.** The plaint averments discloses that the plaintiff has pleaded about O.S No.238/2011 filed by this defendant but took contention that the defendant obtained decree in the said suit by showing wrong boundaries as the claim of the defendant in respect of 1 acre 10 guntas is the land belonging to the plaintiffs wherein there exists coconut tress aged 20 years cultivated by the husband of plaintiff No.1.
- 12.** On perusal of judgment of O.S No. 238/2011, it is seen



that Issue No.3 is framed by casting burden upon the defendants to prove their title over the suit schedule property by way of adverse possession and the said issue was answered in the Negative. The materials on record discloses that the judgment of O.S No. 238/2011 was challenged in R.A. No. 17/2022 wherein the judgment trial court was confirmed and the the judgment of R.A. No. 17/2022 was challenged in RSA No. 620/2024 before the Hon'ble High Court of Karnataka wherein the second appeal was dismissed. Further, it is seen that the Execution Petition No. 13/2022 is disposed as Decree Fully Satisfied.

- 13.** The proceedings of O.S No. 238/2011 vide judgment dated 28.02.2022, R.A. No. 17/2022 vide judgment dated 02.03.2024 and RSA No. 620/2024 vide judgment dated 11.06.2024 before the Hon'ble High Court of Karnataka shows that the judgment and decree of O.S No. 238/2011 dated 28.02.2022 has attained finality and the said decree



is fully satisfied in Execution Petition No. 13/2022. The proceedings of O.S No. 238/2011, R.A. No. 17/2022 and RSA No. 620/2024 shows that the present defendant is declared as the absolute owner and in possession of the property on the basis of the sale deed dated 11.11.1999 and the adverse possession of the present plaintiffs is negatived.

- 14.** As per judgment of Hon'ble Supreme Court of India as under reported in **AIR 177 SUPREME COURT 2421 between T. ARAVINDANDAM Vs T.V. SATYAPAL & ANOTHER**, wherein it is held that,

“We have not the slightest hesitation in condemning the petitioner for the gross abuse of the process of the court repeatedly and unrepentantly resorted to. From the statement of the facts found in the judgment of the High Court, it is perfectly plain that the suit now, pending before the First Munsif's Court, Bangalore, is a flagrant misuse of the mercies of the law in receiving complaints. The learned Munsif must



remember that if on a meaningful-not formal-reading of the plaint it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under Or. VII r. 11 C.P.C taking care to see that the ground mentioned therein is fulfilled. And, if clever, drafting has created the illusion of a cause of action, nip it in the bud at the first hearing by examining the party searchingly under Order X C.P.C. An activist Judge is the answer to irresponsible law suits. The trial court should insist imperatively on examining the party at the first hearing so that bogus litigation can be shot down at the earliest stage. The Penal Code (Ch. XI) is also resourceful enough to meet such men, and must be triggered against them. In this case, the learned Judge to his cost realised what George Bernard Shaw remarked on the assassination of Mahatma Gandhi "It is dangerous to be too good."

- 15.** By considering the ration mentioned above read with the plaint averments, it discloses that the unsuccessful defendants/appellants of O.S No. 238/2011, R.A. No.



17/2022 and RSA No. 620/2024 filed this suit in the form of second round of litigation which cannot be entertained and it is a suit which has to be nipped in the bud. The proceedings of O.S No. 238/2011 judgment dated 28.02.2022, R.A. No. 17/2022 judgment dated 02.03.2024 and RSA No. 620/2024 judgment dated 11.06.2024 shows that the cause of action pleaded in this suit at paragraph No.12 of the plaint is illusory cause of action and this suit it is barred by law. Accordingly, Point No.1 is answered **in the Affirmative.**

- 16. Point No.2:** In view of above made discussions, I proceed to pass the following;

ORDER

I.A. No. III filed by the defendant under Order 7 Rule 11(a) and (d) of CPC is hereby allowed on cost of Rs. 1,000/-.

Plaint is rejected as barred by law and illusory cause of



action.

Draw decree accordingly.

(Directly dictated to the stenographer on the computer, printed through steno, corrected by me and then pronounced in the open court on this the **04th day of August 2026**)

Sd/-

(POORNIMA. K. YADAV)

**Addl. Sr. Civil Judge & JMFC,
Gubbi.**