



**IN 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 this the 12th Day of February 2024

O.S. 116/2023

Plaintiff/s : Manjula @ Manjamma,
W/o Aandana Shetty,
D/o Late Mudalagiriappa,
Aged about 43 years,
R/at Sampige Hosahalli,
Dandinashivara Hobli,
Turuvekere Taluk,
Tumakuru District.

(By Sri. E.H. Adv.)

Vs.

Defendant/s : 1. Rukkamma
W/o Late Mudalagiriappa,
Aged about 63 years,
R/at Near KEB Office, (Old)
Gubbi Town,
Gubbi.

2. Prema
W/o G.Y. Jayanna,
Aged about 54 years,

3. Vinay
S/o G.Y. Jayanna,
Aged about 35 years,



4. Manjunath
S/o G.Y. Jayanna,
Aged about 31 years,
5. Manikanta
S/o G.Y. Jayanna,
Aged about 29 years,

Defendants No.2 to 5 are
R/at Old KEB, Ganigara Beedi,
Near Shanideva Temple,
N.H. 206, Gubbi Town,
Gubbi.

6. Gangamma,
W/o Mudalagiriyaiah,
Aged about 63 years,
R/at Old KEB, Ganigara Beedi,
Near Shanideva Temple,
NH 206, Gubbi Town, Gubbi.

(D1 by Sri. D.K. Adv.)

(D2 to 6 by Smt. P.M.P. Adv.)

PARTIES TO I.A.NO.XVIII

Applicant/Plaintiff : Manjula @ Manjamma,

Vs.

Opponents/Defendants : Rukkamma and Others



Provision under the Application	Under Order 8 Rule 9 R/w Section 151 of CPC
Application Relief sought for	Permission to file rejoinder
The date of the application is filed	27.10.2023
Interlocutory Application Number	VIII
Date of objection filed by the Respondent	28.11.2023
Date of order passed	12.02.2024

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

: ORDERS ON I.A NO.VIII

When the matter was pending for compliance under section 89 CPC, the present application came to be filed.

2. The Plaintiff through her counsel filed this application Under section 151 of CPC seeking permission to file rejoinder.
3. The application is accompanied with the affidavit of the of the plaintiff, wherein it is stated that, the present suit is filed



seeking relief of partition and the defendant No. 2 to 6 by creating documents pleaded about sale Deed as such it is necessary to file rejoinder. Hence, sought to allow the application.

4. On the other hand, the counsel for the defendants filed objection and contended that the application is not maintainable and it is liable to be rejected . It is contended that, the defendants have not made counter claim in the written statement and they have only replied to the pleadings of the plaintiff as such, the plaintiff cannot file rejoinder. Hence, sought to reject the application.
5. Heard the counsel for the plaintiff and defendants.
6. Upon hearing both the counsel and on perusal of the materials available on record, the point that arise for my consideration is;

Whether the application deserves to be allowed?

7. My findings to the above point is in the **Negative**, for the following:



REASONS

8. **POINT NO.1:** The plaint averments discloses that the plaintiff filed this suit seeking relief of partition and separate possession in respect of suit schedule properties.
9. The plaintiff filed rejoinder along with the application which shows that it is containing only denials to the written statement filed by the defendant No.2 to 6.
10. Order 8 Rule 9 of CPC provides that no pleading subsequent to the written statement of defendant other than by way of defense to set off or counter claim shall be presented except with the leave of the Court.
11. In this case the rejoinder filed by the plaintiff is only in the form of denial of the written statement filed by the defendant No.2 to 6 which is not as per the mandate of Order 8 Rule 9 of CPC. In the said Circumstances as the rejoinder is not either in the form of defense to set off or counter claim, it cannot be allowed. Accordingly, I proceed to pass the following:



O R D E R

***The IA No. VIII filed by the
plaintiff under Section 151 of CPC
is hereby rejected.***

Parties to bear their own cost.

(Directly dictated to the stenographer on the computer, printed through steno, corrected by me and then pronounced in the open court on this the **12th day of February, 2024**)

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