



**IN THE COURT OF THE ADDL.SENIOR CIVIL
JUDGE, KUNIGAL**

Present

Smt. Gangavva Ayatti

B.A.LL.B. (Hon's)

Addl. Senior Civil

Judge and JMFC,

Kunigal.

DATED THIS THE 01ST DAY OF JUNE 2026

O.S.No.5/2011

Plaintiff : H.R.Venkatesh Dead by Lrs

(By Sri. C.G.C., and B.R.R.,
Advocate)

-V/s-

Defendants : Mariamma and others.

(D3 by Sri.B.G.R., Adv, D2(a)(b) by
Sri.D.S. Adv, D2(c)absent)

::IA.No.XVII::

Applicants : Shivajamma,

-V/s-

Opponents : H.R.Venkatesh Dead by Lrs



1.Provisions under which the application is filed:	U/o 7 rule 11(d) R/w section 151 of CPC.
2. Relief Sought for :	For rejection of plaint.
3.The date on which the application is filed:	14.01.2026.
4.Number of the application :	I.A.No.XVII.
5.The date on which the objections are filed by different Opponents:	29.01.2026.
6.The date on which the orders were passed on the said application :	01.06.2026.

::ORDERS ON IA No.XVII::

The counsel for applicants/defendant No.3 has filed IA No.XVII U/o 7 rule 11 R/w section 151 of CPC for rejection of plaint as barred by limitation when the case is posted for additional written statement.

2. In the annexed affidavit, it is contended that, the plaintiff has filed present suit against the defendants for the relief of partition and other reliefs. The defendant No.6 is transposed as plaintiff No.3 as per the order dated 30.10.2025. The defendant No.3 already filed written statement contending that, her father Siddalingaiah had executed the registered Will with respect to the suit schedule properties on 13.06.1988 and he died on 26.06.1996. Immediately after his death the plaintiff and



other defendants got mutated the khatha and pahani of the suit schedule properties on the basis of the said registered Will. The said will is within the knowledge of the plaintiffs since 1996. In the above said registered will the said Siddalingaiah has given 3 guntas each in Sy.No.104/2A of Kallanayakanahalli Village to two daughters of Thayamma and also 6 guntas each to the defendant No.1. 2 and 4 to 6. All of them are in possession and enjoyment of the above said lands. The said land is adjacent to the national highway and the national highway authorities have acquired some portion of the land measuring 3375 sq.meters and award notice also came to be issued by the SLAO, National Highway, Kunigal on 15.06.2009 to all the plaintiffs and the defendants No.1 to 6 and they have received the compensation amounts. The plaintiffs at para No.4(a) of the plaint have stated that the above said will is not executed by Siddalingaiah with free will and consent and contended that he was of unsound mind and suffering from age old ailments. The plaintiffs have filed the present suit in the year 2011 as such the same is barred by law of limitation and they have not even challenged the will within prescribed period. Hence, prayed to allow IA No.XVII.

3. The plaintiff No.3 resisted the application by filing objections and denied the averments made in the affidavit. Further contended that order 7 rule 11(d) is not applicable



to the case in hand. In the plaint itself the plaintiffs have pleaded that the will dated 13.06.1988 executed by Siddalingaiah in favour of the defendant No.3 is questioned by the plaintiffs as such the suit is maintainable. When there is fraud, coercion, undue influence is pleaded it is to be considered at the time of the full fledged trial as such the question of limitation does not arise. The alleged will is suspicious and unenforceable document in the eye of law and the defendant No.3 has not produced any document before the court. The alleged execution of the will came to be knowledge of the plaintiff after the death of executor and plaintiff is not resident of Anchepalya Village. In fact, the mother of the plaintiff No.1 was married one Ramegowda who is resident of Adonahalli Village, Yadiyuru Hobli, Kunigal Taluk and plaintiff No.2 is resident of Haluvagilu village which away from suit village. Hence, prayed to dismiss I.A.No.XVII.

4. Heard arguments on both sides.

5. The points that arise for my consideration are:-

1. Whether the defendant No.3 has made out grounds to reject the plaint ?
2. What order?

6. My answer to the above points are:-



Point No.1: In the Negative.

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

REASONS

7. **POINT NO.1:-** This application is filed seeking rejection of plaint filed by defendant No.3. Plaintiff has filed objection and submitted to reject the application.

8. At this juncture it is worth to extract the relevant provision.

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.

9. In **Smt. Muniyamma since dead by Lrs. Vs Sri. Narayanreddy and another. (2021(1) KCCR 366 (DB))** in which it is held that for rejection of plaint averments made in plaint alone should be borne in and to show that suit is barred under any law.

10. From perusal of order VII rule 11 and above referred case law it is clear that application under Sec order 7 rule 11 can be considered that any stage but the only restriction is that the consideration of the application for rejection should not be on the basis of the allegations made by the defendant in his written statement. The specific ground on which defendant is relying for rejection of plaint is order VII rule 11 (d). As per order VII rule 11 (d) plaint shall be rejected where the suit appears from the statement in the plaint to be barred by any law .

11. It is the contention of the defendant No.3 that, the plaintiffs had the knowledge of the execution of the registered will dated 13.06.1988 and they have got mutated revenue entries in their names and also they have received compensation amount from the SLAO., National highway Kunigal. Now after lapse of 20 years, they have filed present the suit challenging the alleged will as such



the suit is barred by law of limitation. On the other hand, the plaintiff No.3 contended that, the alleged Will dated 13.06.1988 is under question and is a suspicious document. The plaintiff in his pleadings has contended that the said document is created one as such the question as to fraud, coercion and undue influence and the question of limitation does not arise.

12. On perusal of the record, it appears that, the present suit is filed for the relief of partition and such other reliefs. It is an admitted fact that, the defendant No.6 was transposed as plaintiff No.3 vide order dated 30.10.2025. It is the contention of the defendant No.3 that, the plaintiff had the knowledge of execution of will and also they have got mutated revenue records in their names way back in the year 1996 vide MR No.14/1996-97. In spite of it the suit is filed in the year 2011 only to harass the defendants. In the said registered Will 3 guntas of land was given to the daughters of Thayamma and 6 guntas of land was given to the defendants No.1, 2 and 4 to 6. Though, it is admitted for the sake of argument that, the plaintiffs had the knowledge of the execution of the will in the year 1996 itself now they have questioned the very execution of the alleged Will by contending that, the defendant No.3 has played fraud on the plaintiffs as such the question of considering the contention of the defendant No.3 as to alleged limitation does not arise. Further, the question as



to limitation is a mixed question of law and facts and cannot be considered to reject the plaint on the ground of limitation. Further, the defendant No.3 appeared in the suit on 20.04.2011 and now when defendant No.6 was transposed as plaintiff No.3 on 14.01.2026 she has filed the present IA seeking rejection of the plaint on the ground of limitation if at all the defendant No.3 was diligent in prosecuting the case she would have filed the application at initial stage soon after receipt of the summons from the court and not taken 15 years to file the present IA. The intention on the part of the defendant No.3 goes to show that in one or other way she intended to drag proceedings. Further the suit is one for partition and such other reliefs and the plaintiffs have questioned alleged Will executed by Siddalingaiah as such if the alleged will is accepted by the plaintiffs and they would have taken the share allotted to them the question of considering the contentions taken by the defendant No.3 might have arisen. Even according to the number of decisions rendered by the Hon'ble Apex Court as well as Hon'ble High Court while considering the application for rejection of the plaint only the averments of the plaint and the documents produced along with the plaint to be taken note off and on the averments made in the written statement. But, the defendant No.3 in her affidavit at para No.4 contended that, she has already pleaded in her written statement contending that her



father has executed registered will and also about allotment of the share which in any way cannot be considered to reject the plaint. Whether the will was executed with the consent and the question as to soundness of mind is a matter of trial as such at this stage, those cannot be considered to reject the plaint. Hence, no grounds made out to allow I.A No.XVII. Hence, **I answered Point No.1 in the Negative.**

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

ORDER

I.A.No.XVII filed by the
defendant No.3 U/o 7 rule 11 R/w
section 151 of CPC is hereby
dismissed.

(Dictated to the stenographer transcribed corrected and then pronounced by me in the open court on this **the 1st day of June 2026**)

sd/-

Addl. Senior Civil Judge
and JMFC, Kunigal.