

**TITLE SHEET FOR JUDGMENTS IN SUITS**

KATK800006912019



**IN THE COURT OF PRL. SENIOR  
CIVIL JUDGE AND JMFC., AT  
SIRA.**

**PRESENT**

**Smt. ZARIFA BANU A.R.,**

**B.A.L., LL.M.**

**PRL.SENIOR CIVIL JUDGE AND JMFC., SIRA**

**DATED THIS THE 10<sup>th</sup> DAY OF JUNE 2026**

**O.S.No.61/2019**

**Plaintiff/s : Krishnappa**

**-Versus-**

**Defendants : Chikkahuliyappa and others.**

**PARTIES TO I.A.No.11**

**Applicant : Basavaraju**

**.....Defendant No.5**

**-Versus-**

**Opponents : Krishnappa**

**..... Plaintiff**



**ORDERS ON I.A.No.11**

The defendant No.5 filed this IA under Order 7 Rule 11 (a) & (d) r/w Sec.151 of CPC for Rejection of plaint for the reasons stated in the affidavit.

2. In the annexed affidavit the defendant NO.5 has sworn on his behalf and on behalf of defendant NO.6 & 7 and submitted that, the suit of the plaintiff is not maintainable either under any law or on facts. The suit of the plaintiff is bad for non joinder of the necessary parties, since one of the daughter of the deceased Muddaiah by name Muddakka was dead, her legal heirs namely Kyathappa and Halaiah are the necessary parties to the suit, hence on that score the suit of the plaintiff is liable to be dismissed. The plaintiff and defendant NO.1 to 8 are already partitioned the suit schedule properties around 45 years back and they are separated from the joint family. Hence the question of the joint family and joint status does not existed. Further



after partition, the defendant No.8 has sold his part of share to one Gowdamuddaiah in respect of the land bearing Sy.NO. 287/2 and he is the bonafide purchaser who is in physical possession and enjoyment of his purchased property. There is no cause of action for the suit, the alleged cause of motion is created and invented by the plaintiff in order to file his false and vexecious suit against themselves and to grab the valuable properties. The father of the plaintiff and his brothers have already partitioned very long back and they are separated from the joint family and also revenue records are accepted in their respective names, after partition they have improved and developed their part of share of landed properties and have dig the borewells and having electricity supply and formed the areca nut and coconut garden in their part of share by borrowed the loan through financial institutions. After partition, he and his brothers (i.e. defendant no. 5 to 7) have divided the share of the their father and he has acquired property through



Registered partition deed, based on the partition deed the khatha and pahani have been accepted in in his names and in the name of his brothers. After partition the father of defendant no-8 has sold his part of share in Sy.NO 287/2, measuring 3.38 guntas in favour of Muddaiah S/O Chikkahuliyappa through Regd. Sale Deed dated 07-07-1987, accordingly the khatha and pahani have been stands in the name of the said purchaser Muddaiah S/O Chikkahuliyappa. In view of the said reasons, the suit of the plaintiff is not survived. Hence, prays to reject the plaint.

3. Per contra, the plaintiff has filed objections by denying the entire averments of the affidavit and contended that, it is well settled law that, to consider the application for the rejection of plaint. The averments set in the plaint alone shall be looked in to and not on the basis of the written statement or defense constituted by the defendant/s. This is a common strategy used by the defendants to have case is dismissed at the very beginning



without going through a full trail. The plaintiff examined himself and marked the available documents on record as exhibits and at this stage the deponent has moved with this false application. The allegations made in the application supporting with affidavit are all far away from the truth. The suit schedule properties are the ancestral and joint family properties of the plaintiffs and the defendants. There is no division between the parties to the suit. No valid and tenable grounds urged in the application. The averments made in the affidavit contrary to the objections are all false and denied herewith. At this stage the application of the deponent is not maintainable under law the deponent has filed this application just to harass the plaintiff. On these grounds and such others prays to reject the I.A.

4. Heard arguments from both sides. Perused entire material on record.



5. The point for consideration arises as follows:

1. Whether the defendant No.5 has made out ground to reject the plaint U/o 7 rule 11 (a) & (d)r/w Sec.151 of CPC?
2. What order?

6. The answer to the above said points are as follows:

Point No.1 : In the Negative.

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

**REASONS**

7. **Point No.1:** This is a suit for partition and separate possession. According to the defendant NO.5 the suit of the plaintiff is bad for non-joinder of the necessary parties, since one of the daughter of the deceased Muddaiah by name Muddakka was dead, her legal heirs namely Kyathappa and Halaiah are the necessary parties to the suit, hence on that score the suit of the plaintiff is liable to be dismissed. The plaintiff and defendant NO.1 to 8 are already partitioned the suit schedule



properties around 45 years back and they are separated from the joint family. Hence the question of the joint family and joint status does not existed. Further after partition, the defendant No.8 has sold his part of share to one Gowdamuddaiah in respect of the land bearing Sy.NO. 287/2 and he is the bonafide purchaser who is in physical possession and enjoyment of his purchased property. There is no cause of action for the suit, the alleged cause of motion is created and invented by the plaintiff in order to file his false and vaxecious suit against themselves and to grab the valuable properties. The father of the plaintiff and his brothers have already partitioned very long back and they are separated from the joint family and also revenue records are accepted in their respective names, after partition they have improved and developed their part of share of landed properties and have dig the borewells and having electricity supply and formed the areca nut and coconut garden in their part of share by borrowed the loan through financial



institutions. After partition, he and his brothers (i.e. defendant no. 5 to 7) have divided the share of the their father and he has acquired property through Registered partition deed, based on the partition deed the khatha and pahani have been accepted in in his names and in the name of his brothers. After partition the father of defendant no-8 has sold his part of share in Sy.NO 287/2, measuring 3.38 guntas in favour of Muddaiah S/O Chikkahuliyappa through Regd. Sale Deed dated 07-07-1987, accordingly the khatha and pahani have been stands in the name of the said purchaser Muddaiah S/O Chikkahuliyappa, as such there is no cause of action to the plaintiff to file this suit.

8. According to the plaintiffs The suit schedule properties are the ancestral and joint family properties of the plaintiffs and the defendants. There is no division between the parties to the suit.



9. It is relevant to note here that, as it is well settled principle of law that the plaint can be rejected based on the averments of the plaint, not on the defense taken by the defendant in the written statement. The learned counsel for the defendant argued that the frivolous suit should be rejected by nipping the bud itself. However, as it is well settled principle of law that, the suit cannot be thrown at the threshold without being an opportunity given to the plaintiff to prove their case much less in a suit for partition and separate possession. More over the question of cause of action is a bundle of facts which are required to be plead and proved for the purpose of obtaining relief claimed in the suit. Further to be noted that the question of cause of action is a question of mixed law and fact, and it can be decided with full fledged trial of both the parties. The test is as to whether if the averments made in the plaint are taken to be correct or not is a matter of trial. Therefore, on the count of contention taken by the defendants in the



written statement the plaint cannot be rejected. Hence, with this observation this court is of the considered view that the defendant No.1 & 2 have not made out ground to reject the plaint. **Hence, Point No.1 answered in the negative.**

**10. Point No.2:** In view of above said discussion in Point No.1 I proceed to pass the following:

**ORDER**

IA No.11 filed under Order 7  
Rule 11 (a) & (d) r/w Sec.151 of  
CPC is hereby dismissed with cost  
of Rs.500/-.

(Dictated to the Stenographer directly on computer, typed by her, revised, corrected by me and then pronounced in the open Court, on 10<sup>th</sup> day of June, 2026).

**(ZARIFA BANU A.R.)**  
Prl. Senior Civil Judge & JMFC.,  
Sira.