

ORDER ON I.A. NO.2

This is an application filed by the defendant No.2 to 7 U/O 7 Rule 11(d) of CPC with a prayer to reject the plaint in the ends of justice and equity.

2. It is stated in the annexed affidavit that, the father of defendant No.2 instituted suit in O.S.No.130/2000 on the file of Civil Judge Court, Sira. Plaintiff was a party defendant No.2 in the said suit. Suit properties are common in the present suit and earlier suit. On merits, suit in O.S.130/2000 was decreed on 28.02.2005. Final decree was also passed on 01.10.2012. The present suit is hit by Sec.11 of CPC. Plaintiff has suppressed these facts and instituted the suit. On these grounds prayed to reject the plaint.

3. Plaintiffs filed objections stating that, the decree in O.S.30/2000 and in F.D.P.10/2006 are not within his knowledge. Since defendants have denied his title and interfered with his possession suit has been instituted. Suit is not hit by law of limitation. No grounds made out to reject the plaint. Accordingly, prayed to reject the application.

4. Perused the application and the objections. Heard the arguments.

5. The points that arise for my consideration are;

1. Whether the suit appears from the statement in the plaint to be barred by any law?
2. What Order?

6. My answer to the above points are as follows;

Point No.1 : In the Negative

Point No.2 : As per Final Order
for the following;

REASONS

7. **POINT NO.1:** Plaintiff instituted the suit for the relief of declaration of title and permanent injunction. He pleaded ignorance as to decree passed in O.S.No.130/2000 and in F.D.P.No.10/2006. Suit of the plaintiff is based on will deed dated:15.12.1987. He claims that, defendants have denied his title and interfered with his possession. The plaint averments amply disclose cause of action to institute the suit. The contention of defendant No.2 to 7 that, suit is hit by Sec.11 of CPC does not fall within the ambit of Order 7 Rule 11(d) of CPC. They are at liberty to take suitable action U/Sec.11 of CPC. On perusal of plaint averments, it does not appear that suit is barred by time. Accordingly, I answer the above point in the **Negative.**

8. **POINT NO.2:** For the above discussed reasons, I proceed to pass the following;

ORDER

I.A. No.2 is rejected.

Matter is posted to frame issues.

Call on 19.10.2019.

**Senior Civil Judge & JMFC.,
Sira.**