



**IN THE COURT OF THE CIVIL JUDGE & J.M.F.C.,  
MUNDGOD, UTTARA KANNADA**

**BENCH: Smt. AKSHATHA C.R.**  
**B.B.A., L.L.B.(Hons.)**  
**Civil Judge & J.M.F.C-Mundgod.**

**ORIGINAL SUIT NO. 34/2019**

**Dated: 2 8<sup>th</sup> Day of February 2026**

**Plaintiffs :**

1. Smt. Neelavva W/o Fakkirappa Harijan,  
Age: 37 years, Occ: Agriculturist and Household,  
R/o: Salgaon, Tq: Mundgod,  
Dist: Uttara Kannada.
2. Smt. Kusuma W/o Fakkirappa Harijan,  
Age: 30 years, Occ: Agriculturist and Household,  
R/o: Salgaon, Tq: Mundgod,  
Dist: Uttara Kannada.

**(By Sri.G.S.K., Advocate)**

V/s

**Defendants :**

1. Chandrashekar Peddanna Bhovi,  
Age: 55 years, Occ: Agriculturist,



R/o: Lakshmeshwar, Tq: Lakshmeshwar,  
Dist: Gadag.

1(a) Smt. Chinnamma W/o Basappa Madivalar,  
Age: 24 years, Occ: Agriculturist,  
R/o: Halageribanna Ward No.22,  
Lakshmeshwar, Tq: Lakshmeshwar,  
Dist: Gadag.

1(b) Sri. Suraj S/o Chandrashekar @ Bhovi  
Soratur, Age: 29 years, Occ: Agriculturist,  
R/o: Halageribanna Ward No.22,  
Lakshmeshwar, Tq: Lakshmeshwar,  
Dist: Gadag.

***(By Sri.K.N.H., Advocate)***

***I.A.No.V***

**Applicants :**

1. Chandrashekar Peddanna Bhovi,  
Age: 55 years, Occ: Agriculturist,  
R/o: Lakshmeshwar, Tq: Lakshmeshwar,  
Dist: Gadag.

1(a) Smt. Chinnamma W/o Basappa Madivalar,  
Age: 24 years, Occ: Agriculturist,



R/o: Halageribanna Ward No.22,  
Lakshmeshwar, Tq: Lakshmeshwar,  
Dist: Gadag.

1(b) Sri. Suraj S/o Chandrashekar @ Bhovi  
Soratur, Age: 29 years, Occ: Agriculturist,  
R/o: Halageribanna Ward No.22,  
Lakshmeshwar, Tq: Lakshmeshwar,  
Dist: Gadag.

**Vs.**

**Opponents :**

1. Smt. Neelavva W/o Fakkirappa Harijan,  
Age: 37 years, Occ: Agriculturist and Household,  
R/o: Salgaon, Tq: Mundgod,  
Dist: Uttara Kannada.
2. Smt. Kusuma W/o Fakkirappa Harijan,  
Age: 30 years, Occ: Agriculturist and Household,  
R/o: Salgaon, Tq: Mundgod,  
Dist: Uttara Kannada..

1	Provision under which the application is filed	<b>Under Order VII Rule 11(d) R/w Section 151 of CPC</b>
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2	Relief sought for	to reject the plaint on the ground that suit is barred by the law of limitation
3	The date on which the applications filed	19-01-2026
4	Number of application	I.A No.V
5	The date on which the objection is filed by the opponent	21-02-2026
6	The date on which the order is passed on the applications	28-02-2026

**:: ORDERS ON I.A.No.V ::**

**1.** Defendant No.1(a) and (b) have moved this application under Order VII Rule 11(d) read with Section 151 of C.P.C. seeking to reject the plaint on the ground that suit is barred by the law of limitation.

**2.** In the accompanying affidavit sworn to by defendant No.1(a) it is stated that, the plaintiffs have filed this suit without any cause having arisen. That the documents upon which the plaintiffs rely are not



genuine more particularly the one said to be executed on 23.11.2008. The plaintiffs are seeking the relief of specific performance on the strength of impugned contract and filed this suit on 24.06.2019 after lapse of around 10 years, which is apparently and hopelessly barred by the law of limitation. It is further stated that infact the plaintiffs have no locus standi to pray for the relief of specific performance against their father Late Sri.Chandrashekar Bhovi. It is further stated that, thus looking from any angle the suit being barred by the law of limitation, is not maintainable. It is also stated that plaintiff's predecessor ought to have filed this suit within stipulated period. That the plaintiffs themselves have stated in their plaint that alleged Agreement of Sale relates back to 23.11.2008. Inter alia defendant No.1(a) and (b) sought to reject the plaint in the ends of justice.



**3.** On the other hand, plaintiffs protested the I.A. on the grounds that a plaint can be rejected under Order VII Rule 11(d) only when there is a specific prohibition under specific law for a suit, as such the application is not maintainable. Further it also contended that the issue of limitation being a mixed question of law and facts, whether the suit is barred by the law of limitation or not will have to be determined only after full-fledged trial and that the same cannot be considered at this stage. With these contentions plaintiffs sought to dismiss the I.A. with costs.

**4.** I have heard both the sides. Keenly perused the materials available on record.



5. Anent to the assertions and contentions of the parties, the following points arise for the consideration of this Court.

***1. Whether the plaint is liable to be rejected on the ground that suit is barred by the law of limitation?***

***2. What order?***

6. Answers to the above 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:** I have already discussed in detail the relief claimed by the applicants/defendant No.1(a) and (b) vide instant application and the defence taken by the plaintiffs. Before delving to determine the issue, this Court opines that it indispensable to take note of certain



principles which are required to be kept in mind while adjudicating an application for rejection of the plaint.

◆ Firstly, the plaint can be rejected only on the grounds specified under the provisions of Order VII Rule 11(a) to (f) of C.P.C. and not otherwise.

◆ While adjudicating an application under Order VII Rule 11 of C.P.C., the Court must restrict its analysis solely to the averments in the plaint and the documents filed along with it. The pleadings of the defendants, defence or any other external evidence cannot be considered.

**8.** The object behind the provision of Order VII Rule 11 of C.P.C. is to avoid Sham Litigation. They are one such menace that not only waste the time of the Courts, but also cause unwarranted prejudice and cause harm to



the parties arrayed as defendants in such litigations, thereby defeating justice. In order to deal with such a menace, Order VII Rule 11 provides litigants the option to pursue an independent and special remedy, empowering Courts to summarily dismiss a suit at the threshold, without proceeding to record evidence and conduct trial. Recently the Hon'ble Apex Court in the case of ***Dahiben v. Arvinbhai Kalyanji Bhanusali*** reported in ***2020 SCC Online SC 562*** set out the principles to deal with the applications filed under said provision. It was opined therein that the entire purpose of conferment of such powers under Order VII Rule 11 is to ensure that a litigation, which is meaningless, and bound to prove abortive should not be permitted to occupy the time of the Court.



**9. The Hon'ble High Court of Karnataka in *M/S Shyamaraju and Company India Ltd vs The Municipal Commissioner* in *CIVIL REVISION PETITION NO.100020 OF 2022 dated 20.02.2026***

has observed that, *“a plaint cannot be rejected under on the ground of limitation unless the suit is ex-facie barred by the law of limitation. Where the question of limitation depends on the adjudication of facts, it becomes a mixed question of law and fact. The power of rejection at the threshold must be exercised only when the legal bar is certain and undisputed on the face of the record.”*

Reliance is also placed on decisions recognizing that limitation can be a mixed question of law and fact and that where determination of limitation depends upon factual adjudication and examination of contractual terms, rejection of the plaint at the threshold is impermissible under Order VII Rule 11(d) of the CPC.



**10.** Further, the plea of limitation raised by the defendant No.1(a) and (b) is not one that can be determined solely on a bare reading of the plaint. The question as to when the right to sue accrued, whether the breach was complete or continued until filing of the suit, and whether exclusion of time or other statutory provisions are attracted, are matters which require factual determination. It is well settled that limitation, in such circumstances, constitutes a mixed question of law and fact. **Moreover, time was not the essence of the contract herein.** It is stated in the Sale Agreement dated 23.09.2008 that “ನಮ್ಮ ಪೈಕಿ 1 ನೇಯವರಿಗೆ ಕ್ರಯದಷ್ಟು ಮಾಡುವ ಕುರಿತು ಪರವಾನಿಗೆ ಸಿಕ್ಕ ಕೂಡಲೇ 2 ನೇಯವರು ಹಣ ಕೊಟ್ಟ ಕೂಡಲೇ ನಮ್ಮ ಪೈಕಿ 1 ನೇಯವರು 2 ನೇಯವರ ಖರ್ಚಿನಿಂದ ಕ್ರಯ ದಸ್ತನ್ನು ಬರೆಯಿಸಿ ತಿರಸಿ ಉಪನೋಂದಣಾಧಿಕಾರಿಗಳ ಕಛೇರಿಯಲ್ಲಿ ನೋಂದು ಮಾಡಿಕೊಡತಕ್ಕದ್ದು ಇರುತ್ತದೆ.” Ergo, the issue of limitation being a mixed question of law and facts, it requires trial to be



conducted. Thus without going into the merits of the case, this Court answers Point No.1 in the **Negative**.

**11. Point No.2:** In light of answering point No.1 as aforesaid, this Court proceeds to pass the following.

**ORDER**

I.A. No.V filed by the defendant No.1(a) and (b) U/O. VII Rule 11(d) read with Section 151 of C.P.C. is hereby dismissed.

Costs are made easy.

*(Typed by me on my laptop, corrected, signed by me and then pronounced the Order in the open Court on this the **28<sup>th</sup> day of February 2026**)*

**Civil Judge & JMFC.,  
Mundgod.**