



IN THE COURT OF THE CIVIL JUDGE
AT SIDDAPUR

Present: Sri.UMESHA, M.P., B.A.L., LL.B.
CIVIL JUDGE & JMFC,
SIDDAPUR

DATED: ON THIS THE 18th DAY OF AUGUST – 2025

ORIGINAL SUIT No. 42 / 2024

PLAINTIFF : M/S PRASHANTI ADARSHA SHIKSHANA SEVA TRUST®
Siddapur represented by Chief Trustee,
Radhakrishna Govind Pai Manjain,
Aged about 78 years, R/o Siddapur Town,
Tq: Siddapur, Dist: Uttara Kannada.
(BY PLEADER Sri.GSH/MNH)
-V/s-

DEFENDANT : SMT. VIJAYA W/o Chandrashekar Belikeri,
Aged about 55 years, Occ: Homemaker,
R/o Near Prashanti School complex,
Post: Siddapura, Siddapura Town,
Tq: Siddapura, Dist: Uttara Kannada.
(BY PLEADER Sri.RPB)

PARTIES TO I A NO. I

APPLICANT/DEFENDANT: SMT. VIJAYA W/o Chandrashekar Belikeri,
Aged about 55 years, Occ: Homemaker,
R/o Near Prashanti School complex,
Post: Siddapura, Siddapura Town,
Tq: Siddapura, Dist: Uttara Kannada.
(BY PLEADER Sri.RPB)

-V/s-

OPPONENT / PLAINTIFF : M/S PRASHANTI ADARSHA SHIKSHANA SEVA TRUST®
Siddapur represented by Chief Trustee,
Radhakrishna Govind Pai Manjain,
Aged about 78 years, R/o Siddapur Town,
Tq: Siddapur, Dist: Uttara Kannada.
(BY PLEADER Sri.GSH/MNH)

ORDERS ON I A NO.I

The Applicant / defendant has filed IA No.I under order 7 Rule 11(a)
& (d) R/w Sec.151 of Civil Procedure Code praying to order to reject the
plaint by allowing the present application in the ends of justice.



2. According to the defendant, the plaintiff has filed the above suit against the defendant for the relief of declaration and possession with respect to the suit schedule property. It is further stated that, the plaintiff has not properly disclosed the real cause of action in getting instituted to the above suit against the defendant. It is further stated that, the plaintiff has not got mentioned anything as to how and when the defendant has got encroached the alleged portion of the suit schedule property and when the defendant has got constructed the alleged illegal construction therein. It is further stated that, the suit schedule property has been got acquired by it under sale deed dated:18.11.1989 and now seeking declaration against the defendant based upon the said sale deed after about 25 years and hence, the present suit is barred by law of limitation. It is further stated that, the plaintiff has sought for the judgment and decree, declaring it as the absolute owner of the entire suit schedule property by virtue of sale deed dated:18.11.1989 and the court fee paid by the plaintiff is insufficient. Hence the suit of the plaintiff having no cause of action. Hence the suit of the plaintiff is not maintainable in law and hence, the suit of the plaintiff is liable to be rejected by allowing this application in the ends of justice.

3. Per Contra, the plaintiff has opposed the same by filing objections to IA No.1 contending that, the present application filed by the defendant is not maintainable either in law or on facts and circumstances of the case. It is further stated that, the defendant has sworn false facts in her affidavit are hereby denied as false and baseless. It is further contended that, the plaintiff has clearly stated all the true and relevant facts in his plaint and the plaint



contents can be treated as the part and parcel of this objections. It is further contended that, the plaintiff trust is the owner of the suit properties. It is further contended that, the proving the case of the plaintiff is matter of trial. It is further contended that, at this stage the application filed by the defendant is not maintainable in law or on facts and circumstances of the case. It is further contended that, the defendant has not made any sufficient grounds to allow the present application. It is further contended that, if the application is allowed then heavy and irreparable loss and injury will be caused to the plaintiff. On the other hand nothing will be caused to other side. It is further contended that, the defendant has no manner of right, title and interest over the suit schedule property. On all these grounds, the plaintiff prayed to reject the IA No.1 filed by the defendant with exemplary costs.

4. I have heard the arguments of learned counsel for the plaintiff and defendant on IA No.1. Perused the documents on record.

5. Upon hearing arguments and on perusal of materials placed on record the following points that would arises for my consideration:

1. ***Whether the applicant / defendant has made out sufficient grounds to reject the plaint as provided U/o 7 rule 11(a) & (d) of CPC?***

2. ***What order?***

6. My answer for the above points are as under because of my below-discussed reasons:

Point No.1 - In the NEGATIVE

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

**REASONS****POINT NO.1:**

7. The plaintiff has filed the suit against the defendant seeking relief of declaration and possession with respect to the suit property.

8. The Applicant / defendant has filed IA No.1 under order 7 Rule 11(a) & (d) R/w Sec.151 of Civil Procedure Code praying to order to reject the plaint as the plaint does not disclose the cause of action for the suit, by allowing the application in the ends of justice.

9. It is specific case of the defendant that, the plaintiff has filed the above suit against the defendant for the relief of declaration and possession with respect to the suit schedule property. It is further stated that, the plaintiff has not properly disclosed the real cause of action in getting instituted to the above suit against the defendant. It is further stated that, the plaintiff has not got mentioned anything as to how and when the defendant has got encroached the alleged portion of the suit schedule property and when the defendant has got constructed the alleged illegal construction therein. It is further stated that, the suit schedule property has been got acquired by it under sale deed dated:18.11.1989 and now seeking declaration against the defendant based upon the said sale deed after about 25 years and hence, the present suit is barred by law of limitation. It is further stated that, the plaintiff has sought for the judgment and decree, declaring it as the absolute owner of the entire suit schedule property by virtue of sale deed dated: 18.11.1989 and the court fee paid by the plaintiff is insufficient. Hence the suit of the plaintiff having no cause of action. Hence the suit of the plaintiff is



not maintainable in law and hence, the suit of the plaintiff is liable to be rejected by allowing this application in the ends of justice.

10. In the supporting affidavit, the defendant sworn that, the plaintiff has filed the above suit against the defendant for the relief of declaration and possession with respect to the suit schedule property. It is further stated that, the plaintiff has not properly disclosed the real cause of action in getting instituted to the above suit against the defendant. It is further stated that, the plaintiff has not got mentioned anything as to how and when the defendant has got encroached the alleged portion of the suit schedule property and when the defendant has got constructed the alleged illegal construction therein. It is further stated that, the suit schedule property has been got acquired by it under sale deed dated:18.11.1989 and now seeking declaration against the defendant based upon the said sale deed after about 25 years and hence, the present suit is barred by law of limitation. It is further stated that, the plaintiff has sought for the judgment and decree, declaring it as the absolute owner of the entire suit schedule property by virtue of sale deed dated:18.11.1989 and the court fee paid by the plaintiff is insufficient. Hence the suit of the plaintiff having no cause of action. Hence the suit of the plaintiff is not maintainable in law and hence, the suit of the plaintiff is liable to be rejected by allowing this application in the ends of justice.

11. It is specific case of the plaintiff that, the present application filed by the defendant is not maintainable either in law or on facts and circumstances of the case. It is further stated that, the defendant has sworn



false facts in her affidavit are hereby denied as false and baseless. It is further contended that, the plaintiff has clearly stated all the true and relevant facts in his plaint and the plaint contents can be treated as the part and parcel of this objections. It is further contended that, the plaintiff trust is the owner of the suit properties. It is further contended that, the proving the case of the plaintiff is matter of trial. It is further contended that, at this stage the application filed by the defendant is not maintainable in law or on facts and circumstances of the case. It is further contended that, the defendant has not made any sufficient grounds to allow the present application. It is further contended that, if the application is allowed then heavy and irreparable loss and injury will be caused to the plaintiff. On the other hand nothing will be caused to other side. It is further contended that, the defendant has no manner of right, title and interest over the suit schedule property. On all these grounds, the plaintiff prayed to reject the IA No.1 filed by the defendant with exemplary costs.

12. Admittedly, the plaintiff Trust has filed the suit against the defendant seeking relief of declaration and possession with respect to the suit property.

13. Admittedly, the cause of action is a bundle of facts giving rise to a particular relief. Admittedly, the question of limitation is a mixed question of law and fact.



14. It is trite law that generally limitation is a mixed question of both facts and law and that the Apex Court have in catena of case held that, limitation per se cannot be a ground to exercise powers under Order 7 Rule 11 of CPC.

15. *In this connection it is relevant to extract the provisions of U/o 7 Rule 11 of CPC – Rejection of Plaint:-*

The plaint shall be rejected in the following cases:-

- (a) **where it does not discloses 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 returned 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;**

16. It is to be noted that, the plaintiff has stated the cause of action for filing the suit in para No.5 of the plaint and hence, the present application filed by the defendant is not maintainable. Moreover, the contention taken by the defendant is a mixed question of facts and law which has to be considered based on oral and documentary evidence of the parties relied at full pledged trial. In this regard, it is relevant to quote decision reported upon by the learned



counsel for the plaintiff in (2006) 5 SC 658 in between Balasaria construction (P) Ltd., -V/s- Hanuman Seva Trust and others wherein the Hon'ble Supreme Court has held that, suit could not be dismissed as barred by limitation without proper pleadings, framing of issue of limitation and taking of evidence - Question of limitation is a mixed question of law and fact and ex facie on reading of the plaint, suit cannot be held to be barred by limitation - Parties relegated to contest the suit - It shall be open to defendant - appellant to raise any plea available to it under the law including the plea of limitation, maintainability of the suit etc.,.

17. The learned counsel for the plaintiff has relied upon the decision reported in 2008 (1) KCCR 232 in case of Mrs.ANURADHA SHENOY -V/S- N.NANJAPPA, wherein it is held that,

“CODE OF CIVIL PROCEDURE, 1908 – Order 7, Rule 11 clause (d) – Rejection of plaint – Plaint averments are material and not what the defense is”

18. The learned counsel for the plaintiff has relied upon the decision reported in AIR 2019 GUJARAT 167 in case of PRAJAPATI RAMESHKUMAR BHAGWANDAS BY LRS -V/S- THAKORE JUGAJI MALAJI, wherein it is held that,

A. “Civil P. C. (5 of 1908), – O.7, R.11(d) – Rejection of plaint – On ground of time barred suit – Issues framed with regard to limitation – Issue of limitation is mixed question of law and facts – Plaint not liable to be rejected.



B. “Civil P. C. (5 of 1908), – O.7, R.11(a) – Rejection of plaint – Cause of action - Is nothing but bundle of facts – Cause of action or joinder or mis-joinder of party – Cannot be made subject - matter of exercise of O.7, R11(a) – Plaint not liable to be rejected.

19. Order 14 Rule 1(4) does not mention about the mixed question of law and fact. Therefore, sub-Rule(2) of Rule 2 of Order 14 is confined to only issues of law. It does not deal with a mixed question of law and fact. A question relating to jurisdiction may be a pure question of law or a mixed question of law and fact.

20. In the present case as well the issue raised by the defendant is a mixed question of law and facts and therefore, it has to be adjudicated after full pledged trial. At this stage, the defendant came up with the present I.A No.1. Even in the present application also the defendant has not stated justifiable grounds to allow the application. Hence, the I.A.No.1 filed by the defendant deserves to be rejected. Hence I answer point No.1 in the Negative.

POINT NO.2:

21. In view of my findings on Point No.1, I proceed to pass the following order:

ORDER

I.A.No.I filed by the defendant under the provisions of Order 7 Rule 11(a) & (d) of CPC is hereby rejected.

The cost of this application shall follow the result of the suit.

(Directly dictated to Court hall Typist on computer, typed by her, corrected by me, signed and then pronounced in open court on the 18th day of AUGUST -2025)

(UMESHA M.P)
Civil Judge,
Siddapura

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