

KAVN300004902021



**IN THE COURT OF THE CIVIL JUDGE & JMFC.,**

**AT: HAGARIBOMMANAHALLI**

DATED THIS THE 25<sup>th</sup> DAY OF OCTOBER 2025

: **PRESENT:**

SRI. **SAYED MOHIUDDIN URF KHAWAJA PEERAN.**, BA. LLB.,(Spl.)  
CIVIL JUDGE & JMFC., HAGARIBOMMANAHALLI.

**O.S.No.61/2021**

**PLAINTIFF/s** : **Shri.Isak Ahmed S/o Husensab Bagali,**  
Aged : 45 years, Occ: Coolie,  
R/o Banashakari Oni, Mundargi,  
Mundargi Taluk, Gadag District.

**Vs**

**DEFENDANT/s** : 1) **Smt.Aasmabi H. W/o Ibrahim Khaleel Patel,**  
Aged : 55 years, Occ:Housewife,  
2) **Shri.Ibrahim Khalil S/o Mohd.Isaqsab Patel,**  
Aged : 58 years, Occ:Assistant Sub-Inspector,  
KSRP, 8<sup>th</sup> Batolian,  
3) **Smt.Masooda Patel W/o Isaq Ahmed Bagali,**  
Aged : 39 years, Occ:Nurse,

(All the defendants R/o KSRP, 8<sup>th</sup> Batolian,  
near Police Quarters, Jayanthi Nagar,  
Shivamogga).

**I.A.No.II**

**APPLICANT/DEFENDANT NO.1/s: Smt.Aasmabi H. W/o  
Ibrahim Khaleel Patel, ,**

(Rep.by Sri.**C.L.P.**, Advocate.)

**Vs.**

**RESPONDENT/PLAINTIFF/s: Shri.Isak Ahmed S/o Husensab  
Bagali,**

( Rep.by Sri.**A.H.**, -Advocate)

**ORDER ON I.A.No.II**

The defendants have filed I.A.No.II under Order 7 Rule 11(a) and (d) R/w Section 151 of CPC., for rejection of plaint.

**2.** In the accompanying affidavit to the I.A. it is stated by the defendant No.1 that, the plaintiff has filed the present suit against the defendants for the relief of declaration of title, permanent and mandatory injunction with respect of suit schedule properties. The plaintiff in the plaint not pleaded the date or the specific events which gave rise to the cause of action for filing of the suit. The plaintiff has made false allegations, but has not mentioned any specific date to show that when the right to sue accrued for filing the suit. In the plaint it has alleged that he has purchased the suit schedule

properties on 21.12.2009 from the amount which was received from his father. Now he has filed the present suit. Limitation for filing the suit to challenge the same is for 3 years from the date of sale deeds. The allegations made in the plaint are contrary to Order 6 of CPC. The allegations made in the plaint are bogus. Hence, he prays to reject the plaint.

3. In spite of providing sufficient opportunities the plaintiffs have not filed any objections to the said application.

4. Heard and perused the documents.

5. The following points arise for my consideration:

1) **Whether the defendants have made out proper grounds for rejecting the plaint U/O.7 Rule 11(a) and (d) R/w Sec.151 of CPC., as prayed in the I.A.No.II?**

2) **What order?**

6. My answers to the above points are as under:

Point No.1 : In the **NEGATIVE**

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

## **REASONS**

7. The present suit is filed by the plaintiffs against the defendant for the relief of declaration of title, permanent and mandatory injunction with respect of suit schedule properties. In the present case on hand the defendant has appeared before the Court, they have not filed any written statement. When the case was posted for further examination in chief of PW1 the defendant has filed the above said application. Order 7 Rule 11 of CPC provides as under;

***11. 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 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;***

***(e) where it is not filed in duplicate;]***

***(f) where the plaintiff fails to comply with the provisions of rule 9:]***

***[Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.]***

8. The contention taken by the defendants is that, the plaint does not disclose the cause of action, no specific date are mentioned in the plaint which gave rise to the cause of action. As such, he prays to reject the plaint. I have perused the entire plaint averments, in plaint Para No.59 the plaintiff shown the cause of action for filing the suit that; “ the cause of action of the suit is arisen to the plaintiff on 24.03.2021 when he was obtained the alleged sale deeds”. Further in plaint Para No.36 it is stated that; “ the defendants in collusion with each other with a malafide intention to harass the plaintiff has filed a Crl.Misc.No.328/2018, after service of summons he has appeared before the Court and filed his objections, further he started to obtaining the documents in the month of September 2019, then he has

came to know about the alleged sale deeds. On going through the plaint averments it appears that, the plaint averments discloses the cause of action for filing the suit.

**9.** In the reported decision **2023 SCC OnLine SC 1270 (G. Nagaraj and Another vs. B.P. Mruthunjayanna and Others)** the **Hon'ble Supreme Court of India** in **Para No.6** of the said decision held as under.

*6. The law is well settled. For dealing with an application under Rule 11 of Order VII of CPC, only the averments made in the plaint and the documents produced along with the plaint are required to be seen. The defence of the defendants cannot be even looked into. When the ground pleaded for rejection of the plaint is the absence of cause of action, the Court has to examine the plaint and see whether any cause of action has been disclosed in the plaint.*

As per the above said decisions the relevant fact which need to be looked into for deciding the application under Order 7 Rule 11 are the averments of the plaint only. For considering the application under Order 7 Rule 11 averments in the plaint alone are to be examined and no other extraneous factor can be taken into consideration. In the reported decision **(2020) 7SCC 366 DAHIBEN V/S ARAVINDBHAI KALYANJI BHANUSALI (GAJRA) DEAD**

**THROUGH LEGAL REPRESENTATIVES AND OTHERS.** In **para No.23.10** the **Hon'ble Supreme Court of India** held that as under;

**23.10. At this stage, the pleas taken by the defendant in the written statement and application for rejection of the plaint on the merits, would be irrelevant, and cannot be adverted to, or taken into consideration.**

On the basis of the above reasons and discussions, I answer **Point No.1 in the Negative.**

**10. Point No.2** :- For the aforesaid reasons and discussions made above, I proceed to pass the following:-

### **ORDER**

I.A.No.II filed by the defendants under Order 7 Rule 11 R/w Section 151 of CPC., is hereby dismissed.

*(Dictated to the Stenographer, transcribed and computerized by her, corrected by me, and then pronounced in the open court on this the 25<sup>th</sup> day of OCTOBER 2025.)*

**(SAYED MOHIUDDIN URF KHAWAJA PEERAN)  
CIVIL JUDGE & JMFC., H.B.HALLI.**

**(Order pronounced in open court  
vide separate order)**

**ORDER**

I.A.No.II filed by the defendants under  
Order 7 Rule 11 R/w Section 151 of CPC., is  
hereby dismissed.

**(SAYED MOHIUDDIN URF KHAWAJA PEERAN)  
CIVIL JUDGE & JMFC., H.B.HALLI.**