



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

**AT: HAGARIBOMMANAHALLI**

DATED THIS THE 6<sup>th</sup> DAY OF FEBRUARY 2025

: **PRESENT:**

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

**O.S.No.127/2018**

- PLAINTIFF/s** :1) **Gonemma W/o Ramachandrappa**  
**D/o Late Marigoneppa,**  
Aged about : 55 years, Agriculturist,  
R/o Emmiganuru.
- 2) **Omanna S/o Late Marigoneppa,**  
Aged about : 52 years, Agriculturist,  
R/o Varadapura Village, H.B.Halli  
Taluk, Ballari District.
- 3) **Ramanna S/o Late Marigoneppa,**  
Aged about : 45 years, Agriculturist,  
R/o Varadapura Village, H.B.Halli  
Taluk, Ballari District.
- 4) **Hulugappa S/o Late Marigoneppa,**  
Aged about : 48 years, Agriculturist,  
R/o Varadapura Village, H.B.Halli  
Taluk, Ballari District.
- 5) **Hanumakka W/o Late Mariyappa**  
**dead by her legal representatives,**
- 5(a) **Bhujanga S/o Late Mariyappa,**  
Aged about : 28 years, Agriculturist,  
R/o Huvinahal, Koppala Taluk  
and District.
- 5(b) **Sreedevi W/o Maruthi,**

Aged about : 24 years, Household,  
R/o Chukkanakallu.

- 5(c) **Mariyappa S/o Late Mariyappa,**  
Aged about : 21 years, Agriculturist,  
R/o Huvinahal, Koppala Taluk  
and District.

**Vs**

- DEFENDANTS/:** 1) **Basamma W/o Dyamappa,**  
Aged about: 55 years, R/o Marabbihal  
Village, H.B.Halli Taluk, Ballari District.
- 2) **Huligemma W/o Mallappa,**  
Aged about: 52 years, R/o Halagapura  
Village, H.B.Halli Taluk, Ballari District.
- 3) **Nagappa S/o Late Havappa,**  
Aged about: 50 years, Occ: Agriculturist,  
R/o Varadapura Village, H.B.Halli Taluk,  
Ballari District.
- 4) **Dodda Ningavva W/o Kenchappa,**  
Aged about: 48 years, Occ: Household,  
R/o Halagapura Village, H.B.Halli Taluk,  
Ballari District.
- 5) **Ningappa S/o Late Havappa,**  
Aged about: 45 years, Occ: Agriculturist,  
R/o Varadapura Village, H.B.Halli Taluk,  
Ballari District.
- 6) **Smt.Sanna Ningavva W/o Laxmappa,**  
Aged about: 42 years, R/o Varadapura  
Village, H.B.Halli Taluk, Ballari District.

**I.A.No.III**

**APPLICANT/DEFENDANT NO.3 : Nagappa S/o Late Havappa**

(Rep.by Sri.**A.K.**, Advocate)

**V/s**

**RESPONDENTS/ PLAINTIFFS : Gonemma W/o  
Ramachandrappa  
D/o Late Marigoneppa,  
and others**

(Rep. by Sri.**S.H.V.**, Advocate)

**ORDER ON I.A.No.III**

The defendant No.3 has filed the I.A.No.III under Order 7 Rule 11(b) R/w Section 151 of CPC for rejection of plaint.

**2.** In the accompanying affidavit to the IA, it is stated by the defendant No.3 that, the father of the plaintiffs and father of the defendants Havappa are own brothers. His father Havappa and his uncle late Marigoneppa were got divided the properties long back, and they are living separately. The suit schedule properties are the self acquired properties of his father, total extent of the suit schedule properties is 27.72 acres which values more than Rs.3 Lakhs. The plaintiffs have jointly seeking the half share in the suit schedule properties. The plaintiffs valued the suit schedule properties for Rs.22 Lakhs and the plaintiffs valued their share for Rs.11 Lakhs. The plaintiffs have not paid the separate Court fee. This Court

has no pecuniary jurisdiction to entertain the suit. There is no cause of action for the plaintiffs to file the present suit. Hence he prays to reject the plaint.

3. To the said application, the plaintiffs have filed the objections and denied the entire contentions of the defendants, and further contended that the suit is properly valued. Each plaintiffs share valued for Rs.2,20,000/-. The defendants have not yet filed any written statement and filed the present application with an intention to drag on the proceeding. Hence they prays to dismiss the application.

4. Heard and perused the documents.

5. The following points arise for my consideration:

1) **Whether the defendant No.3 has made out proper grounds for rejecting the plaint U/O.7 Rule 11(b) R/w Sec.151 of CPC as prayed in the I.A?**

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 defendants for the relief of partition and separate possession with respect of the suit schedule properties. In the present case on hand the defendants have not filed any written statement. When the case was posted for plaintiffs evidence the defendants have filed the present application for rejection of the plaint. 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. I have perused the plaint averments. In the plaint para No.VIII, the plaintiffs valued the suit for Rs.22,00,000/-. The plaintiffs have valued their half share for Rs.11,00,000/-. Further they have valued each plaintiffs share for Rs.2,20,000/-. In prayer column the plaintiffs prays to direct the defendants to effect the partition and allot half share or any legal share to the plaintiffs. The para No.VIII of the plaint is as under;

***VIII. Court Fee:- The plaintiff valued the suit at Rs.22,00,000/- for the purpose of Court fee and jurisdiction and plaintiffs share is  $\frac{1}{2}$  share is Rs.11,00,000/- each share of the plaintiffs is Rs.2,20,000/- and a fixed Court fee of Rs.200/- is herewith paid U/S 35(2) of KCF @ SV Act 1958.***

On going through the prayer of the plaintiffs, if plaintiffs are succeeded in the present suit, they are entitled for 1/5th share each out of the alleged half share. On going through the same, prima facie it appears that the plaintiffs are claiming their individual share in the suit schedule properties. As per the Para No.VIII of the plaint, for the purpose of jurisdiction the plaintiffs have valued their individual and separate shares for Rs.2,20,000/- each. In the decision of **Hon'ble High Court of Karnataka in MFA No.7023/2017 (CPC) dated 14.11.2018 between Smt.M.Veena V/s Smt.Suma** in **Para No.27(5)** the Hon'ble High Court of Karnataka held as under;

***27(5) If the plaintiffs are more than one, but they claim their individual and separate share to be declared, in such an eventuality, for the purpose of court fee, they have to pay the court fee on their individual share separately, but for the purpose of jurisdiction the largest share amongst the plaintiffs becomes the subject matter of the suit, therefore, in such an eventuality, single largest share of the plaintiff has to be taken into consideration as subject matter***

***of the suit for the purpose of jurisdiction of the court.***

On going through the above said decision and on going through the plaint averments it discloses that there is no statements in the plaint to show that the suit is barred by law. 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 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.***

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In the above said decision the Hon'ble Supreme Court of India clearly held that for deciding the application under Order 7 Rule 11 of CPC plea 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. The defendants taken a contention that this Court has no pecuniary jurisdiction to entertain the

suit and they prays to reject the plaint. Lack of jurisdiction is not a ground to reject the plaint. On the basis of above reasons and discussions, I am of the opinion that the present application filed by the defendant No.3 is not maintainable, hence same is liable to be dismissed. As such, I answer **Point No.1 in the Negative.**

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

**ORDER**

I.A.No.III filed by the defendant No.3  
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 6<sup>th</sup> day of FEBRUARY 2025.)*

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