

**IN THE COURT OF ITINERARY SENIOR CIVIL JUDGE
HUVINAHADAGALI**

Dated this the 28th day of June 2025

PRESENT

MADHUSUDHANA D K

Senior Civil Judge
Itinerary sitting at Huvinahadagali

OS No.40/2024

Plaintiff : Smt Uppara Chowdamma

V/s

**Defendants : Sri. Uppara Chowdappa
and another**

**ORDERS ON IA NO.13/2025 FILED BY THE
DEFENDANTS NO.2 TO 5 UNDER ORDER 7 RULE
11(d) READ WITH SECTION 151 OF CPC.**

The Defendant No.2 to 5 have filed the above IA No.13/2025 dated 20.06.2025 under Order 7 Rule 11(d) of CPC by seeking Rejection of the Plaint.

2. In support of the IA No.13/2025, the Defendant No.2 Sri. Uppara Veerabhadrapa has filed his Affidavit by deposing on oath for himself and also on behalf of the other Defendants. In brief, the Defendant No.2 has contended that, they have filed their Written Statement and in their Written Statement, they have narrated the

facts about Partition of Ancestral Properties prior to 1941 and also about Plaintiff's father acquiring his share in the Properties. After the said Partition, the Properties were got mutated to the name of Plaintiff's father Mudukappa and he had started residing separately. The Plaintiff's brother Sri. Uppara Chowdappa, who is the Defendant No.1 in this Suit, had filed OS No.54/2013 for Partition and Separate Possession against the Defendants No.2 and 3 and after contest, the said Suit was came to be dismissed and RA No.62/2018 was also filed and came to be dismissed on 15.10.2020 by confirming the Decree in OS No.54/2013. Therefore, in view of the findings Recorded in the earlier Suit and the Appeal, the present Suit of the Plaintiff is not maintainable and the Plaint is liable to be Rejected for the reason of Principle of *Resjudicata*.

3. The Plaintiff has filed her detailed Objections to the IA No.13 of the Defendants No.2 to 5. The Plaintiff has narrated the Written Statement Averments and by citing the Judgments of the Cases in **Venkatamma Vs Muniswamy Naidu** and **Shanmugam Vs Saraswathi**, the Plaintiff has narrated the Plaint Averments once again in the Objections and she has prayed for dismissal of the IA No.13.

4. I have heard the Arguments of Defendants No.2 to 5 and the Plaintiff on the IA No.13.

5. On appreciation of the pleadings and Documents of the Plaintiff, the Points that arise for my consideration are as follows:

POINTS

1. Whether the Defendants No.2 to 5 show that, the Plaintiff is liable to be rejected on the grounds stated in their IA No.13/2025?

2. What Order?

6. Now, My answers to the above Points are as follows:

ANSWERS

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 narrated the facts and circumstances leading up to filing of the IA No.13/2025 at the inception of the above Orders and therefore, to avoid repetition, the same will not be reiterated here.

8. Before commencement of my discussion, it would be convenient for me to reproduce the Provisions

of Law under which this IA No.13 is filed. The Provisions of Order 7 Rule 11 of CPC provides as follows:

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 written 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 comply with the provision of Rule 9.**

9. The Hon'ble Apex Court and the Hon'ble High Court of Karnataka have reiterated in a number of Reported Case Laws that, *while considering an application for Rejection of the Plaint, the Court is bound to consider only the Plaint averments and documents of the*

Plaintiff and the Court is not supposed or not required to consider the averments made in the Written Statement or Affidavit averments of the Defendant. Therefore, I have meticulously read the entire Plaintiff averments to ascertain the Cause of Action for the Plaintiff.

10. Though, the Defendants No.2 to 5 have contended many grounds in their IA No.13, their main contentions are in respect of the filing of OS No.54/2013 for Partition by the Plaintiff's brother and its dismissal and consequent filing of the RA No.62/2018 and confirmation of the Decree in OS No.54/2013 as a ground for Rejection of the Plaintiff. The Defendants have not specifically stated the Principle of Resjudicata as a ground for Rejection of the Plaintiff but, their contentions about earlier Judgments in OS No.54/2013 and RA No.62/2018 implies that, they are invoking the Principle of Resjudicata as a ground to Reject the Plaintiff.

11. The Hon'ble Apex Court has held in the Case of **Srihari Hanumandas Totala Vs Hemant Vithal Kamat** reported in **(2021) 9 SC 99** that, **Rejection of Plaintiff cannot be determined by applying the Principle of Resjudicata.**

12. Therefore, by considering the fact that, the Plaintiff is not even a Party in the earlier Suit and Appeal and in the absence of the Plaint Averments showing sufficient grounds for Rejection of the Plaint, I do not see any reasons to make detailed discussion on the Points argued on behalf of the Parties by relying on the Documents. When the Hon'ble Apex Court has held that, *the Plaint can not be Rejected on the ground of Resjudicata*, I do not see any grounds to Reject the Plaint on the grounds urged in the IA No.13. Therefore, ***the Point No.1 is answered in the Negative.***

15. **POINT NO. 2 :** For the above discussion, I proceed to pass the following:

ORDER

The IA No.13/2025 of the Defendants No.2 to 5 filed under Order 7 rule 11(d) read with Sections 151 of CPC is hereby dismissed with Costs of Rs.1,000/- payable to the Plaintiff.

The Case is posted for cross-examination of the PW1 finally on 25.07.2025.

Sd/-

MADHUSUDHANA D K
Itinerary Sr Civil Judge
Huvinahadagali