

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

**Present: SMT. B.G.SHOBHA, M.A., LL.B.,**  
Civil Judge & JMFC, Harapanahalli.

Dated this the 9<sup>th</sup> day of July 2020

**OS.NO.208/2013**

**Plaintiff/s** : S. Anjinappa and others  
since dead by LRs.  
(Rept., by Sri. K.J.P., Advocate)

-Vs.-

**Defendant/s**: Mayavvara Holiyappa  
since dead by LRs.  
(Rept. by Sri. RBH/MSB/KBR, Advocates)

**IA.No.VIII**

Applicant/s: Mayavvara Holiyappa  
since dead by LRs.

-Vs.-

Respondent/s: S. Anjinappa and others  
since dead by LRs.

**ORDERS ON I.A.NO.VII U/O 7 RULE 11(d) R/w.**  
**SEC 151 OF CPC**

This is an application filed by the defendant No.1(a) with a prayer to reject the plaint for the reasons mentioned in affidavit accompanied with the application.

**2.** The said application is accompanied with an affidavit sworn by the defendant No.1(a) wherein she has stated that she is wife of defendant No.1. She is having knowledge about the facts of the case. She sworn this affidavit herself and on behalf of other defendants. The plaintiffs have filed this false suit without justifiable reason by suppressing the real facts. There are no cause of action to file the suit. Earlier the grand father of plaintiff by name Sakri Gangappa S/o Late. Pakkirappa had filed one suit in OS.No.119/1998 against Honnammanavar Mayavva W/o Late. Goneppa who is mother in law of defendant No.1 herein. Said suit was filed with respect to the present suit schedule property. After bitter contest said suit came to be disposed on 12-04-2005. As per said decree the defendant No.1 is the absolute owner in possession of suit schedule property. In said suit it is stated that Sakri Gangappa has no right to obtain right of ownership of suit schedule property and permanent injunction. Hence the application is not maintainable. If the application is not allowed, the defendants will be put to irreparable loss and injury. Hence prayed to allow the application.

**3.** The plaintiffs have resisted said application by filing their objection wherein they have contended that the application

is not maintainable either in law or on facts. The averments made in affidavit are all false. The schedule mentioned in OS.No.119/1998 and the schedule mentioned the present suit are deferent and the parties in both suits are also deferent. Hence prayed to reject the application.

4. Heard arguments.

5. On the basis of the above facts, the following points that arise for my determination are:-

1. Whether the defendants have made out sufficient grounds to allow the application ?

2. What order ?

6. My answer on the above points is:

Point No.1 : In the Negative;

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

### **REASONS**

7. **Point No.1:-** On perusal of the contention urged by both parties, it appears that this suit is filed for the relief of declaration and permanent injunction with respect to the suit schedule property. The present application is filed by the defendants with a prayer to reject the plaint for want of cause of action. According to the defendants the plaintiffs have filed this

application without cause of action. Earlier the grand father of the plaintiffs by name Late S. Sakri Gangappa had filed suit against the mother-in-law of present defendant No.1 by name Honnammanavara Mayavva with respect to the suit schedule property. Said suit came to be dismissed and in said suit it is stated that the plaintiff in said suit has no right to claim ownership and permanent injunction with respect to suit schedule property. On the other hand the objection of the plaintiffs is that the both suits are different and subject matter and parties in both suit are different. However considering the over all material placed before the Court it discloses that the issues have been not framed till this day in this suit. The defendants have not taken any contention regarding earlier suit in OS.No.119/1998 their written statement. They have produced certified copy of judgment and decree in OS.No.119/1998 which makes clear that one Sakri Gangappa had filed suit against Honnammanavara Mayavva for the relief of declaration of title and permanent injunction with respect to the property bearing Sy.No.251 measuring 0.23 cents. On perusal of plaint schedule of this suit it discloses that the survey number, extent and boundaries mentioned in schedule are tallying with the extent,

survey number and boundaries mentioned in judgment passed in OS.No.119/1998. It makes clear that subject matter of both suit are one and the same, but the parties are not the one and the same. Though the defendants have stated that the grand father of the plaintiff herein had filed said suit against mother-in-law of defendant No.1, they have not stated that whether they are the legal representatives of defendant in OS.No.119/1998 or not. Moreover when there are prayer for rejection of plaint, the averments of plaint only be considered. The cause of action is a bundle of facts. On perusal of plaint averments it discloses that at para No.6 in page No.3 it is mentioned that 25-07-2013 the defendants have trespassed into the suit schedule property, which makes clear that there is a cause of action to file the suit. The provision of **Order 7 Rule 11 of CPC** provides rejection of plaint in the following circumstances;

1. *Where it does not disclose a cause of action.*
2. *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.*
3. *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.*

4. *Where the suit appears from the statement in the plaint to be barred by any law.*
5. *Where it is not filed in duplicate.*
6. *Where the plaintiff fails comply with the provisions of Rule 9.*

In the instant suit the defendants have not sought for rejection of plaint for the above grounds as stated in the aforesaid provision and they have not made out any grounds to reject the plaint. Therefore this Court is of the opinion that the application filed by the defendants is liable to be dismissed. Accordingly point No.1 is answered in the **negative**.

**8. Point No.2:-** In view of the above discussion, I proceed to pass the following;

**ORDER**

**IA.No.VIII filed by the defendant U/O.7 Rule**

**11(d) r/w. Sec. 151 of CPC is hereby rejected.**

*Dictated to the Stenographer directly on computer, revised, corrected and then pronounced by me in the open Court on **9<sup>th</sup> day of July, 2020.***

**(B.G.SHOBHA)**  
Civil Judge & JMFC.,  
Harapanahalli.



*(Order pronounced in the open Court vide  
separate)*

**O R D E R**

**IA.No.VIII filed by the  
defendant U/O.7 Rule 11(d) r/w.  
Sec. 151 of CPC is hereby  
rejected.**

Civil Judge & JMFC.,  
Harapanahalli.