

KAVP210031682022



IN THE COURT OF CIVIL JUDGE & J.M.F.C
AT BASAVANA BAGEWADI

Dated this the 8th Day of December, 2025

Present: Sri.Ameet Ghatti, B.A., LLB.,
Civil Judge & JMFC.,
Basavana Bagewadi.

O.S.No.331/2022

PLAINTIFF: Smt. Shantabai D/o Bapurao Buyyar.

/Vs/

DEFENDANTS: Peerasab S/o Rajesab Patel & Another.

PARTIES IN I.A-IV

APPLICANT/DEFENDANT NO.1:

Peerasaba S/o Rajesab Patel,
Age: 55 years, Occ: Agriculture,
R/o Ukkali, Tq: Basavana Bagewadi.

(By Sri. S.A.Yaranal, Advocate)

// Versus //

OPPONENT/PLAINTIFF:

Smt. Shantabai D/o Bapurao Buyyar,
Age: 60 years, Occ: Household Work,
R/o Ukkali, Tq: Basavana Bagewadi.

(By Sri. P.B.Hosamani, Advocate)

i	Provision under which the applications are filed	U/o VII Rule 11 (b), (c), (d) of CPC.
ii	Relief sought for	With a prayer to reject the plaint.

iii	The date on which the application is filed	01.09.2022
iv	Number of the application	IV
v	The date on which the objections are filed by different opponents	06.09.2022
vi	The date on which the orders were passed on the said applications	08.12.2025
vii	The applications filed by	Defendant No.1.
viii	Stage of the suit	To hear defendants on I.A.No.I & II

ORDER ON I.A.No.IV

The defendant No.1 has filed this application under Order VII Rule 11 (b), (c), (d) of CPC praying to reject the plaint on account of noncompliance of Order XXVII Rule 5-A of CPC and suit property is valued more than Rs.5-Lakhs and this Court is not having jurisdiction to try this suit.

- 2** In support of this application, the defendant No.1 has filed affidavit contending that, the plaintiff has filed the present suit against the defendants for the relief of declaration and consequential relief of permanent injunction. Further contending that, defendant No.1 has purchased the property VPC No.410 measuring East-West 38-feet and North-South 30-feet under a Registered Sale

Deed dated 03.12.2008 for consideration amount of Rs.45,000/-. But, the present market value of the suit property is Rs.8,00,000/- i.e. more than Rs.5-Lakhs. Hence, this Court is not having jurisdiction to try the suit. Further contending that, the defendant No.2 is the Panchayat Development Officer. The plaintiff has not arrayed the Government as a party as contemplated under Order XXVII Rule 5-A of CPC. Therefore, present suit is not maintainable in the eyes of law. The plaintiff has filed one more suit before the Additional Civil Judge, Basavana Bagewadi in O.S.NO.162/2014 pertaining to the said property along with other properties. The plaintiff has filed the present suit without cause of action. If the application is allowed, there is no prejudice in favour of plaintiff, on the contrary the defendant No.1 will be put to irreparable loss. Hence, prays to reject the plaint.

- 3** On the other hand, the plaintiff has filed objection to this application contending that, the application filed by the defendant No.1 is not maintainable in the eyes of law, hence liable to be rejected. The contents of the application are all false. Further contended that, with an intention to drag the matter, the defendant No.1 has filed this

application. The fact that “ADX” Area belongs to plaintiff is well known to the defendants. The defendant No.2 knowing fully well about the Status-quo order passed in O.S.NO.162/2014, has given permission to the defendant No.1 to construct the building on the said area “ADX” which is illegal one. In this regard the plaintiff has produced the documents. The defendant No.1 colluding with defendant No.2 created false documents and on the basis of said documents, the defendant No.1 is constructing a building illegally on suit area. Further contended that, the plaintiff has filed application U/Sec.80(2) of CPC for dispensation of notice which is still pending. Therefore, present application is not maintainable. The plaintiff has paid property Court Fee and suit is properly valued. On all these grounds, the plaintiff prays to dismiss the application.

- 4** On hearing and perusal of records, the following points arise for my consideration:
1. Whether the I.A.No.IV filed by the defendant No.1 under Order VII Rule 11 (b), (c), (d) of C.P.C. deserves to be allowed ?
 2. What order ?

5 My answers to the above Points are as under:

Point No.1 : In the Negative

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

REASONS

6 **POINT No.1**:- Admittedly, this suit is filed by plaintiff for the relief of declaration and consequential relief of permanent injunction against the defendants. After filing of the suit, defendant No.1 and 3 appeared before this Court. The defendant No.1 filed this application contending that, the valuation of the property is more than Rs.5-Lakhs and this Court is not having jurisdiction to try the suit and the plaintiff has not made Government as party to the suit. Hence, suit is hit by provision of Order XXVII Rule 5(A) of CPC. Hence, prays to reject the plaint.

7 On the other hand, the plaintiff has filed objection to this application contending that, the application filed by the defendant No.1 is not maintainable in the eyes of law, hence liable to be rejected. Further contended that, he has filed the present suit for the relief of declaration and permanent injunction against the defendants. Further defendant No.1 colluding with defendant No.2 created

false documents and defendant No.2 has given construction permission to the defendant No.1. On the basis of the same, the defendant No.1 is constructing a building on the suit area. The plaintiff has paid property Court Fee and suit is properly valued. Hence, prays to reject the application.

- 8 The provision of Order 7 Rule 11 of C.P.C. has limited scope for rejection of plaint. The application which consequently states that, suit is barred under any law or does not disclose cause of action must be drawn from averments made in plaint and in order to invoke Order 7 Rule 11 of CPC, no amount of evidence can be looked into. At that stage, issues on merits of matter could not be within realm of court, while adjudicating application under Order 7 Rule 11 of C.P.C. court can not go through the contents and pleadings of written statement. But court has to go through the plaint averments. The court has to satisfy that suit appears from statements in the plaint to be barred by any law or doesn't disclose cause of action. If from the statements in the plaint it appears that suit of the plaintiff is barred by any law or doesn't disclose cause of action then court has to reject the plaint. The

Court cannot touch upon merits of the suit while dealing with the applications filed Under Order 7 rule 11 of C.P.C.

- 9 Now keeping in mind above aspects let us consider the present application. Before advertng to the merit and factual aspects of the statement of the plaint it is necessary to refer provisions of Order 7 Rule 11 of CPC for better appreciation which reads thus:

Order 7 Rule 11 speaks about the 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 under-valued, and the plaintiff, on being required by the Court to so 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 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-papers 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-papers, 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.

- 10** The above mentioned provisions makes it clear that where a suit does not disclose the cause of action or whether relief claimed is under valued and the plaintiff being required to furnish correct valuation within time and where the relief claim is properly valued but the plaint is written upon on insufficiently stamped paper or the suit appears from the statement in the plaint barred by any law or does not disclose cause of action then the plaint has to be rejected. By way of present application defendant No.1 has specifically pressed into service the provisions of Order 7 Rule 11 (d) of C.P.C. contending that the plaint is barred of law, since the plaintiff failed to comply the provisions of order 27 rule 5(A) of CPC.
- 11** In the present case plaint averments disclose that plaintiff is claiming relief of declaration and permanent injunction

against defendants in respect of the suit property. However, the plaintiff in the objection specifically mentioned that, plaintiff has no claim against the defendant No.2, but the defendant No.2 is arrayed as a formal party only in order to give notice to the defendant No.2 about filing of the present suit.

- 12** At this juncture, it is useful to refer a decision reported in **(2008) 12 SCC 661 in between the Kamala and Ors Vs K.T. Eshwara Sa and Ors** where in the Hon'ble Supreme Court pleased to held that rejection of plaint under Order 7 Rule 11 of CPC has limited scope. Application which consequently states that, suit is barred under any law or does not disclose cause of action must be drawn from averments made in plaint.
- 13** It is further held that for invoking order 7 rule 11 of C.P.C., no amount of evidence can be looked into. At that stage, issues on merits of matter could not be within realm of court. The Hon'ble Supreme Court while dealing with provisions of order 7 Rule 11 of CPC pleased to held that, while adjudicating application under order 7 Rule 11 of C.P.C. the court cannot go through the contents and

pleadings of the written statement. But court has to go through plaint averments and therefore the court has to satisfy that suit appears from statements in the plaint to be barred by law or doesn't disclose cause of action. If from the statements in the plaint it appears that suit of the plaintiff is barred by any law or doesn't disclose cause of action then court has to reject the plaint.

- 14** The learned Counsel for the defendant No.1 contended that suit is bad for non compliance of provisions of order 27 Rule 5-A of CPC. It is to be noted here that, non compliance of order 27 Rule 5-A of CPC is a curable defect and plaintiff deserves an opportunity to plead the necessary parties to the present suit. Therefore, the plaint cannot be rejected at the threshold. Moreover, the present suit is filed not only as against defendant No.1 but as against defendant No.2 also. Therefore, the contention of the Counsel for the defendant No.1 that for non compliance order 27 Rule 5-A of CPC is unsustainable and deserves to be rejected. Since plaint cannot be partially rejected as against one of the parties.

- 15** It is also necessary to refer the judgment of Hon'ble High Court of Karnataka in Civil Revision Petition No.263/2019 dated 9.9.2019 in between PDO Madanayakanahalli Gram Panchayat Vs. M.L.Sadashivayya, wherein also an interim application was filed U/o 7 rule 11 of CPC to reject the plaint on account of non compliance of order 27 rule 5-a of CPC but the Hon'ble High Court pleased to held that normally, for non joinder of property party, the plaint cannot be rejected at threshold. The plaintiff has to afforded an opportunities to implead the necessary party to the suit, since the non-compliance of provision of order 27 rule 5A of CPC is curable defect.
- 16** Now the Counsel for the defendant No.1 would contended that, there is no relief as against defendant No.2. Therefore, the plaint has to be rejected on this score alone. The said contention of the Counsel for the defendant No.1 is unsustainable in view of the fact that a plaint can either be rejected as whole or not at all. The said view is supported by a decision reported in **AIR 2017 SC 4477** in between **Sejal Glass Ltd., Vs. Navilan Merchants Pvt. Ltd.** Therefore, in view of the said decision the contention of the Counsel for the defendnt

No.1 that since no claim is made against the defendant No.2, plaint has to be rejected is unsustainable. Therefore, considering all these aspects, I am of the view that contention of the defendant No.1 that plaint has to be rejected is unsustainable. Further I have gone through the entire plaint averments and apparently it seems that, plaint is not barred by any law.

- 17** Further, if the defendant No.1 is of the contention that the market value of the suit property is more than pecuniary jurisdiction of this Court, then he would have produced any cogent material before this Court. Further, the suit cannot be rejected by acting under Order 7 Rule 11 of CPC even if this Court has no pecuniary jurisdiction to try and adjudicate the present suit. It is settled principle of law that, the plaint has to be returned to the plaintiff to file it before the jurisdictional Court if this Court finds out that it has no pecuniary jurisdiction and adjudicate the matter on hand. However, there is no material before this Court at this stage to come to the conclusion that, this Court has no pecuniary jurisdiction to try this suit. Hence, considering all these aspects, I am of the considered view that, application of defendant No.1 is

liable to be dismissed as devoid of merits. **Hence, I answer Point No.1 in the Negative.**

18 POINT No.2:- In view of the above reasons, I proceed to pass the following:

ORDER

I.A.No.IV filed by the defendant No.1
under Order VII Rule 11 (b), (c), (d) of C.P.C.
is hereby rejected.

No order as to cost.

*(Dictated to the Stenographer on Computer directly, typed and print out taken by him, Order corrected and signed by me, then pronounced by me in the Open Court on this the **8th day of December, 2025**).*

(Ameet Ghatti)
Civil Judge & JMFC
Basavana Bagewadi

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