

KAVP310003432022



Presented on : 14-02-2022
Registered on : 15-02-2022
Decided on : 12.01.2026

**IN THE COURT OF THE ADDL. CIVIL JUDGE AND JMFC,
INDI.**

-PRESENT-

SHREE. VIKAS DALAWAI

B.A., LL.B.

I Additional Civil Judge & JMFC, Indi.

Dated this the 12th Day of January, 2026

Original Suit No.90/2022

PLAINTIFF/S

1. Shri. Tejappa S/o. Ayyappa Talawar @ Koli

V/S

DEFENDANT/S:-

1. Shri. Aravind S/o. Basavantraya Patil and others.

I.A. NO. III

APPLICANT/DEFENDANT No.1 & 2

**1. Shri. Aravind S/o. Basavantraya Patil,
Age: 45 Yrs., Occ: Agril.,**

**2. Shri. Kallappa S/o. Basavantraya Patil,
Age: 48 Yrs., Occ: Agril.,
both R/o. Chadachan Tq: Chadachan, Dist: Vijayapur.**

V/S

OPPONENT/PLAINTIFF:

- 1. Shri. Tejappa S/o. Ayyappa Talawar @ Koli,
Age: 45 Yrs., Occ: Agril.,
R/o. Chadachan, Tq: Chadachan, Dist: Vijayapur.**

**(Sri. SGH Adv. For Plaintiff)
(Sri. MBB Adv. For Defendants)
(D-5 Exparte)**

In which provision the application is filed	Application U/O.7 Rule 11 (d) of CPC
The relief sought to be claimed	Rejection of plaint.
Date of application	22.03.2025
Number of application	III
Date of Objection	05.11.2022
Date of order.	12.01.2026

ORDERS ON I.A.NO.III

IA No. III is filed by the defendants under Order VII Rule 11 of CPC, 1908, seeking rejection of the plaint insofar as Defendant Nos. 3 and 4 are concerned, on the ground that the plaint does not disclose any cause of action against them.

2. It is stated by the defendants that the plaintiff has incorrectly shown Defendant Nos.3 and 4 as majors in the plaint, whereas they are minors. Defendant No. 3 is stated to have been born on 25-04-2005 and Defendant No.4 on 12-05-2009. In

support of the said contention, the defendants have produced Birth Certificates and Living Certificates to establish they are minors. On that basis, it is stated that the suit against minor defendants is not maintainable and that no cause of action has arisen against them.

3. The plaintiff has filed detailed objections contending that the application is misconceived and not maintainable in law. It is contended that: while deciding an application under Order VII Rule 11 CPC, only the averments made in the plaint are to be looked into and not the defence or documents produced by the defendants. The question of minority of defendants and appointment of guardian is governed by separate provisions under the CPC and cannot be a ground for rejection of the plaint.

4. The plaintiffs further contended that, the grounds under Order VII Rule 11(a) to (d) CPC are exhaustive, and the defendants' contentions do not fall under any of those grounds. The application is liable to be dismissed with compensatory costs.

5. Heard both counsel for the plaintiff and defendants.
Perused the available materials on record.

6. The following points arise for the consideration of this Court;

1. Whether the defendants have made out grounds for rejection of the plaint under Order VII Rule 11 CPC?

2.What order ?

7. My answer to the above points are as follows;

Point No:1. In the Negative.

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

REASONS

8. Point No 1: It is a settled principle of law that while considering an application under Order VII Rule 11 CPC, the Court must confine itself strictly to the averments made in the plaint and the documents relied upon by the plaintiff. The defence raised by the defendants or documents produced by them cannot be taken into consideration at this stage.

9. The Hon'ble Supreme Court in **T. Arivandandam v. T.V. Satyapal, (1977) 4 SCC 467**, has held that **“the plaint should be read as a whole to ascertain whether it discloses a cause of action.”**

10. Further, in **Saleem Bhai v. State of Maharashtra, (2003) 1 SCC 557**, the Hon'ble Supreme Court has categorically

held that **“For the purpose of deciding an application under Order VII Rule 11 CPC, the averments in the plaint alone are relevant, and the pleas taken by the defendant in the written statement are wholly irrelevant.”**

Similarly, in **Popat and Kotecha Property v. State Bank of India Staff Association, (2005) 7 SCC 510**, it is held that **the power under Order VII Rule 11 CPC can be exercised only if the plaint does not disclose a cause of action on a meaningful reading of the plaint.**

11. In the present case, the contention of the defendants that Defendant Nos.3 and 4 are minors is based entirely on documents produced along with the affidavit filed in support of IA No.3. Such material cannot be looked into while deciding an application under Order VII Rule 11 CPC.

12. Even assuming that Defendant Nos.3 and 4 are minors, the Code of Civil Procedure provides a specific mechanism under Order XXXII CPC for safeguarding the interests of minor parties by appointing a guardian. Filing of a suit against a minor without appointing a guardian is, at best, a curable procedural defect and cannot be a ground for rejection of the plaint.

13. The Hon'ble Supreme Court in Rameshwar Prasad v. Shambahari Lal, AIR 1963 SC 1901, has held that procedural defects relating to representation of minors are curable and do not render the suit void ab initio.

14. Order VII Rule 11 CPC enumerates specific grounds such as absence of cause of action, undervaluation of suit, insufficient court fee, bar of suit by law.

15. The defendants' contention regarding minority of Defendant Nos. 3 and 4 does not fall under any of the grounds specified under Order VII Rule 11(a) to (d) CPC.

On a meaningful reading of the plaint as a whole, this Court finds that the plaint discloses a cause of action. Therefore, the extraordinary power of rejection of plaint cannot be exercised in the present case.

16. Therefore, in view of the law laid down by the Hon'ble High Court and considering the records there are no grounds made out by the applicant for rejection of plaint. On perusal of the provision U/O.7 Rule 11(A) of CPC it appears that, the applicant has not made out any grounds for rejection of plaint. Hence, Point No.1 is answered in the **Negative**.

17. POINT NO.2: In view of my above discussions, I proceed to pass the following;

ORDER

I.A. No.III filed by the applicant/defendant

No.2 under order 7 Rule 11 (d) of C.P.C is hereby rejected.

No order as to costs.

*(Dictated to the Stenographer directly on computer, transcribed and typed by her, corrected by me and then pronounced in the open court on **12th day of January 2026**)*

(VIKAS DALAWAI)
I Addl.C.J. & JMFC Vijayapura.