

IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC, SHAHAPUR**Dated this the 26th day of November- 2025****Present: Smt. Hema Pastapur, B.A.,L.L.B.****SENIOR CIVIL JUDGE & JMFC, SHAHAPUR****OS No.42/2021**

- Plaintiffs:** 1. Dariya Begum W/o Jamaluddin Lokapalli,
Age 60 years, Occ. H.H.
2. Nabira Begum W/o Khaja Patel Police Patil,
Age 50 years, Occ. H.H.
3. Masida Begum @ Jahirabee
W/o Mohamad Shabbir Shaik,
Age 50 years, Occ. H.H.
- All are R/o Konkal Village, Tq. Wadagera,
Dist. Yadgir.

(By Sri.S.S.,Advocate)

Defendant: Mohammad Bi W/o Chand Patel
Jallappanor, Age 55 years, Occ. H.H. & Agri,
R/o Babalad Village, Tq. Wadagera,
Dist. Yadgir.

(By Sri.C.T.D.,Advocate)**IA No.V**

Dated: 10-09-2025.

Objection filed on 27-10-2025.

Disposal off IA No.V dated 26-11-2025

ORDER ON IA No.V

1. That, the defendant has filed the application under Order VII Rule 11(a) & (d) R/w Sec.151 of Civil Procedure Code, with a prayer to reject the plaint as a suit is barred by limitation.

2. That, the defendant in his affidavit has contended that the plaintiffs in their plaint in para No.6 have pleaded that on 20-05-2017 they came to know about the entries got made by the defendant in revenue records and from the said pleadings it clearly appears that the present suit is barred by limitation and the same is liable to be rejected.

3. That, the plaintiffs have submitted their detailed objections to said application and have contended that in OS No.127/2017 which was submitted before the Civil Judge, Shahapur Court, the present defendants in their written statement have contended that the value of the suit land is more than Rs.10,00,000/- and in view of the same the said Court had returned the plaint in the year 2021 and thereafter the present plaint has submitted before this Court in the year 2021. Hence, the suit is well within time. Hence, plaintiffs have prayed for rejecting the said application.

4. That, I have heard arguments and perused the materials placed on record. That, the following points arise for My consideration and determination:-

1. Whether the present plaint is liable to be rejected as prayed for?
2. What order?

5. That, My answer to the aforesaid points are as

Point No.1: In the **NEGATIVE**.

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

following;

REASONS

6. **Point No. 1:** That, the said defendant has contended that, the present suit is barred by limitation. Hence, the same is liable to rejected.

7. That, the defendant has placed his reliance on following decisions;

1. 2021(5) KCCR SN 116.

Smt.Suvarna and Others

V/s

**Manager, IFFCO-TOKIO General Insurance Company
Limited, Maharashtra and Another.**

Wherein it has held that “CIVIL PROCEDURE CODE 1908-Order 7, Rule 11(a), (b)- Application seeking rejection of plaint- Suit for declaration of title and that sale deeds were not binding on plaintiff- Trial Court rejected application on ground that plea set up by defendant/ petitioner is mixed question of law and fact- Quashing order of trial Court and allowing application”.

2. 2021(5) KCCR SN 117

Smt. N.S. Nagalakshmi

V/s

Vidya Vardhaka Sangha, Bengaluru and others.

Wherein it has held that “KARNATAKA PRIVATE EDUCATIONAL INSTITUTIONS (DISCIPLINE AND CONTROL) RULES, 1978-Rule 17-Disciplinary proceedings-Validity-Practising Advocate appointed as enquiry officer-Officer himself framed charges-Found to be vague-Documents referred to in report not marked Witnesses not examined Officer concluded enquiry on same day with hottest haste Suffering from vice of personal bias Maxim nemo debet esse iudex in propria causa applies Proceedings vitiated-Tribunal placing reliance on KGS (CCA) Rules which are not applicable-Proceeded to dismiss appeal-Order of Tribunal quashed-Employer directed to pay 50% back, wages with other terminal benefits to petitioner.”.

3. 2022(4) KCCR SN 448 (SC)

C.S. Ramaswamy

V/s

V.K. Senthil and Others.

Wherein it has held that “CIVIL PROCEDURE CODE, 1908-Order 7, Rule 11(d)-Rejection of plaint-Suit for cancellation of sale deed-Filed after lapse of ten years from date of execution of sale deeds-Allegation that sale deed was obtained by fraud and/or misrepresentation-No pleading as to when and how they came to know of such fraudulent sale-Plea that alleged fraudulent sale came to knowledge of plaintiffs only when they visited suit property-No pleading as to when they visited suit property-Alleged fraud not supported by any further averments-By mere use of word "fraud" plaintiffs cannot bring suits within limitation which otherwise may be barred by limitation-Rejection of application-Not proper”.

4. HCR 2023 Karnataka 469

D.L. Kannan (Dead) and Others.

V/s

Ambarish Reddy and Another.

Wherein it has held that without relief of possession, no effective relief can be granted in a declaratory suit.

5. HCR 2025 Karnataka 343

Sathish and Others.

V/s

K.N. Nagaraj and Another.

Wherein it has held that “Important Point: (1) Rejection of plaint-Clever drafting of plaint to create illusive cause of action should not come in way of Court to nip in the bud such bogus litigation. (2) Limitation period would commence from first cause of action-Once limitation period begins, it cannot be stopped by any force except by force of law”.

6. (2019) AIR (SC) 1430

Raghawendra Sharan Singh

V/s

Ram Prasana Singh (Dead) By Lrs.

Wherein it has held that “Civil Procedure Code, 1908
Rejection of plaint Bar of limitation - Title suit
Plaintiff has instituted suit against defendant for
declaration that defendant has acquired no title and
possession on the basis of deed of gift - Gift deed is a
registered gift deed - Plaintiff never disputed gift deed
- When suit is barred by any law, plaintiff cannot be

allowed to circumvent that provision by means of clever drafting - Courts below have materially erred in not rejecting plaint in exercise of powers under Order 7, Rule 11 of CPC - Plaint rejected”.

7. 2023 SAR(Civ) 740

Ramishetty venkatanna & Anr.

V/s

Nasyam Jamal Saheb & Ors.

Wherein it has held that “R-Rejection of Plaint- suit barred by Limitation- Illusory Cause of action by clever drafting without explanation of circumstance, Plaint barred by Limitation under Order 7 Rule 11(a)(b) of CPC-1908”.

8. 2025 SAR (Civ) 541.

Smt.Uma Devi and Ors.

V/s

Sri. Anand Kumar and Ors.

Wherein it has held that “R-Plaint-Rejection of Plaint Scope and Application-Power to reject plaint can be exercised at any stage of suit-Only averments in plaint to be considered. A. Civil Procedure Code, 1908-Order

7 Rule 11-Rejection of Plaintiff-Limitation-Partition Suit-Constructive Notice Suit filed after 55 years of oral partition and 45 years after registered sale deeds- Plaintiffs failed to specify exact date of knowledge of registered sale deeds-Partition of 1968 evidenced by revenue record entries Registered sale deeds executed in 1978 provide constructive notice to the world-Suit filed in 2023 prima facie barred by limitation-Plaintiffs cannot reignite their rights after sleeping on them for 45 years-Trial Court rightly allowed application under Order 7 Rule 11 CPC-No justifiable reasons for High Court to have remanded the matter”.

9. 2025 SAR (Civ) 345

Indian Evangelical Lutheran Church Trust Association

V/s

Sri. Bala & Co.

Wherein it has held that “R- Rejection of Plaintiff- Rejection of first suit in 1998 for non-payment of court fees- Second suit filed in 2007 after 9 years of rejection- Held, second sit must be filed within 3 years from date of rejection of first plaintiff- Plaintiff liable to be rejected”.

8. It is to be noted here that, rejection of the plaint under Order VII Rule 11 of Code of Civil Procedure, is a drastic power conferred in the Court to terminate a civil action at the threshold. That, the averments in the plaint that has to be read as a whole to find out whether it discloses a cause of action or whether the suit is barred under any law. At the stage of exercise of power under Order VII Rule 11, the stand of the defendants in the written statement or in the application for rejection of the plaint is wholly immaterial. It is only if the averments in the plaint *ex facie* do not disclose a cause of action or on a reading thereof the suit appears to be barred under any law the plaint can be rejected. That, in all other situations, the claims will have to be adjudicated in Course of the trial.

9. That, at the stage of exercise of power under Order VII Rule 11, the stand of the defendants in the written statement or in the application for rejection of the plaint is wholly immaterial. It is to be noted here that, from the perusal of the entire record it appears that initially the plaintiffs have submitted the present plaint before the Civil Judge Shahapur, Court and the same was numbered as OS No.128/2017 and after returning the same by the said Court on the basis of the jurisdiction the present plaint presented before this court in the year 2021. Hence, the suit is not at all barred by limitation. Hence, without much discussion, point No.1 is answered in the **NEGATIVE**.

10. **Point No.2:** That, as discussed on point No. 1, I proceed to pass the following:

-ORDER:-

That, the application filed by the defendant under I.A.No.V is hereby rejected.

No order as to costs.

(Directly dictated to the typist-copyist, typed by him, corrected by me and then pronounced in the open Court on this 26th day of November 2025).

(Hema Pastapur)
Senior Civil Judge & JMFC,
Shahapur.