

**ORDER BELOW EXH.49 IN R.C.S.NO. 299 OF 2025**

This is an application filed by defendant No.5 as per O.7 R.11(d) of the C.P.C. on the ground of res-judicata.

02. It is averred in the application that, suit is instituted for Final Plot No.412 admeasuring area 3849.86 sq.mt. It is the contention of the plaintiffs that suit property is their ancestral property. Major portion of this property was acquired by the Government in the year 1955. Now, plaintiffs are claiming declaration in respect of that acquisition by the Government.

03. R.C.S.No. 201/1990 was instituted by predecessor of plaintiffs. There was oral compromise between the parties and suit was disposed off accordingly. Defendants in the present suit were party in that suit also. Defendants failed to follow the terms of compromise hence predecessor of plaintiffs have filed suit for declaration and injunction which was registered as R.C.S. No. 443/1993. In the said suit there was written compromise between plaintiffs predecessor and defendants in the present suit. Accordingly, there was compromise decree in respect of Final Plot No.412.

04. Defendant No.5 has contested the suit on the ground that present suit is barred by principles of res judicata because the previous suit bearing No.443/1993 instituted by predecessor of plaintiffs against present defendant was decided in terms of compromise. The contention of defendant No.5 is that subject matter of the instant suit is the same and since the earlier suit already stands

decided in terms of compromise therefore the subsequent suit is barred by Sec.11 of C.P.C.

05. Plaintiffs have filed their say at Exh.81 and resisted contents of the application. It is submitted that, parties in the earlier suit and in the present suit are different, subject matter and suit property is also different. Earlier suit was instituted for declaration and injunction. Present suit is instituted for, to sought declaration in respect of mutation entry 11175 and other consequential reliefs. There was a consent decree in earlier suit hence, matter was not heard and finally decided. Therefore, principles of res judicata are not applicable to the present suit hence, application is not tenable.

06. Perused the application, say and the record. Heard both the parties at length.

07. Hearing both sides, following points arose for my determination and I have given my finding on each point for reasons to follow.

<b>Sr. No.</b>	<b>Points</b>	<b>Findings</b>
1.	Does from plain reading of plaint, plaintiffs suit is barred by principles of res judicata?	... No
2.	What order ?	... As per final order.

## **REASONS**

### **As to point No.1 :-**

08. “11. 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 plaintiffs fails to comply with the provision of R.9.

09. Earlier suit was instituted for the prayer of the declaration and injunction in respect of admeasuring area 931 sq.ft. of the Final Plot No.412. Present suit is instituted for whole Plot No.412. Plaintiffs are claiming declaration in respect of mutation entry No.11175 and other reliefs. Earlier suit was disposed in view of compromise decree. Compromise decree cannot be applicable as a principle of res judicata. To support this contention learned advocate for plaintiffs have filed on record following ruling of Hon'ble Guahati High Court.

*Dulal Chandra Bhuyan and others Vs. Secretary to the*

*Government of Assam, Panchayat and C.D. Department and others, AIR 1986 Gauhati 56.*

10. On the contrary learned advocate for the defendant No.5 submitted that compromise decree is applicable as a principle of res judicata. To support this contention learned advocate for defendant No.5 has produced on record following ruling of Hon'ble Supreme Court

- i) Manjunath Tirakappa Malagi and Anr. Vs. Gurusiddappa Tirakappa Malagi (Dead Through LRs), Special Leave Petition (Civil) No(S).4812 of 2023 dated April 21, 2025.*
- ii) Triloki Nath Singh Vs. Anirudh Singh (D) Thr. LRs. & Ors., Civil Appeal No(S). 3961 of 2010.*

11. After perusal of record it reveals that prayers in earlier and present suit are different. Whether present suit is barred by principle of res judicata can be decided after full fledged trial. While deciding application under O.7 R.11 the averments made in the plaint in their entirety must be held to be correct. If the allegations in the plaint prima facie show a cause of action, then court cannot embark upon an inquiry whether the allegations are true or false.

12. From the plain reading of the plaint there is cause of action for the suit. Whether present suit is barred by principle of res judicata can be decided after full fledged trial. In such circumstances, without giving an opportunity to plaintiffs it will not be just and proper to reject the plaint at this stage. Hence, in above facts and

circumstances and aforesaid reasons I answer point No.1 accordingly and in order to answer point No.2, I pass the following order :-

**ORDER**

1. Application is rejected.
2. Costs to cause in the suit.

Place : Karad  
Date : 22.08.2025

(J.J.Mane)  
4<sup>th</sup> Jt. Civil Judge Sr. Dn., Karad.