

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 23RD DAY OF JANUARY, 2026
BEFORE
THE HON'BLE DR. JUSTICE K.MANMADHA RAO
CIVIL REVISION PETITION NO.100176 OF 2022

BETWEEN:

SMT. JAKKAVVA
W/O BHEERAPPA KANAL
AGE. 39 YEARS, OCC. AGRICULTURE,
R/O. ALAGUR, TQ. JAMKHANDI,
DIST. BAGALKOT-587301.

...PETITIONER

(BY SRI. GIRISH A. YADAWAD, ADVOCATE)

AND:

1. SMT. KHAIRUNABI
W/O HUSENASAB JAGADAL
AGE. 60 YEARS, OCC. HOUSEHOLD WORK,
R/O. MANAS-YADAHALLI, TQ. BILAGI,
DIST. BAGALKOT-587102.
2. SMT. MASHABI
W/O RAJESAB HUNNUR
AGE. 58 YEARS, OCC. HOUSEHOLD WORK,
R/O. MAHALINGAPUR, TQ. MUDHOL,
DIST. BAGALKOT-587312.
3. SMT. BIBIJAN
W/O FAKRUSAB KILLEDAR
AGE. 43 YEARS, OCC. HOUSEHOLD WORK,
R/O. MAREGUDDI, TQ. JAMKHANDI,
DIST. BAGALKOT-587121.
4. SMT. AASHABI
W/O HAJARATSAB MUDALAGI
AGE. 50 YEARS, OCC. HOUSEHOLD WORK,

R/O. MAREGUDDI, TQ. JAMKHANDI,
DIST. BAGALKOT-587121.

5. SMT. NAVASHADBEGAM
W/O AJARUDDIN YADAHALLI
AGE. 33 YEARS, OCC. HOUSEHOLD WORK,
R/O. MAREGUDDI, TQ. JAMKHANDI,
DIST. BAGALKOT-587121.

6. SMT. RESHMA
W/O HAJARATSAB MUDALAGI
AGE. 45 YEARS, OCC. HOUSEHOLD WORK,
R/O. MAREGUDDI, TQ. JAMKHANDI,
DIST. BAGALKOT-587121.

...RESPONDENTS

(BY SRI. MRUTYUNJAY TATA BANGI, ADVOCATE FOR R1;
SRI. S.C. BHUTI, ADVOCATE FOR R4 & R5;
NOTICE TO R2 & R3-SERVED;
NOTICE TO R6-HELD SUFFICIENT)

THIS CRP FILED UNDER SEC.115 OF CPC, 1908, PRAYING
TO SET ASIDE THE ORDER DATED 01.10.2022 PASSED BY THE
PRINCIPAL CIVIL JUDGE AND JMFC, JAMKHANDI ON I.A. NO.10
IN OS NO.133/2017 AND ALLOW IA NO.10 FILED BY THE
PETITIONER BY REJECTING THE PLAINT IN O.S. NO.133/2017,
IN THE INTEREST OF JUSTICE.

THIS CRP HAVING BEEN HEARD AND RESERVED FOR
ORDERS ON 09.01.2026 AND COMING ON FOR
PRONOUNCEMENT THIS DAY, ORDER WAS MADE
THEREIN AS UNDER:

CORAM: THE HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV ORDER

This Civil Revision Petition is filed under Section 115 CPC challenging the order dated 01.10.2022, passed by the Principal Civil Judge & JMFC, Jamkhandi in O.S. No.133/2017, whereby the trial court dismissed I.A. No.X filed by the petitioner/defendant No.1 under Order VII Rule 11(a) & (d) read with Section 151 of the Code of Civil Procedure, 1908 (CPC), seeking rejection of the plaint.

2. Brief facts leading rise to filing of this civil revision petition are:

The respondents/plaintiffs instituted a suit in O.S.No.133/2017 for partition and separate possession of suit schedule properties claiming themselves to be daughters of deceased Ainoddin. The respondent's case is that the suit properties were originally purchased by Ainoddin and upon his death on 24.05.2017, succession opened and they are entitled to their respective shares. The petitioner claims to have purchased one of the suit schedule properties, namely R.S. No.11/7, vide registered sale deed

dated 20.04.2018 from defendant No.3 and asserts that she is a bona fide purchaser for value without notice. On the basis that, the suit properties stood in the name of Hazaratsab (brother of the plaintiffs). The petitioner filed I.A.No.X seeking rejection of the plaint on the ground that there is no cause of action and that the suit is barred having regard to the principles of Mohammedan Law.

3. The trial court by the impugned order rejected I.A.No.X holding that the plaint discloses cause of action and that the issues raised are triable issues of fact.

4. Learned counsel for the petitioner submits that the impugned order is illegal, arbitrary and contrary to law, since the trial court failed to appreciate the legal position regarding Mohammedan Law. It is submitted that under Mohammedan Law, there is no concept of joint family property. Therefore, property standing in the name of one person does not give rise to any right of share to other legal heirs. In the present case, the suit properties admittedly stood in the name of Hazaratsab, brother of the plaintiffs,

and consequently, he was the exclusive owner of the properties. The plaintiffs have no right to claim a share in the suit properties as sisters under Mohammedan Law. Since the plaint itself admits that property stood in the name of Hazaratsab, the suit is barred by law, and the trial court ought to have rejected the plaint under Order VII Rule 11(d) CPC. He submits that the trial court committed an error in not considering the legal bar in its entirety and in holding that a full trial was necessary.

5. He further submitted that the petitioner is a bona fide purchaser having purchased the property after due diligence, and her rights ought not to be prejudiced by the continuation of the suit. On these grounds, learned counsel urged that the impugned order be set aside and the plaint in O.S.No.133/2017 be rejected.

6. Learned counsel for the respondents opposed the petition and submitted that the trial court has rightly rejected I.A.No.X as the averments in the plaint disclose a cause of action. It is settled law that for rejecting a plaint

under Order VII Rule 11 CPC, the Court has to look only at the averments of the plaint without going into the merits of the case or the defence taken by the defendant. He submits that the issues such as whether the property stood in the name of Ainoddin or Hazaratsab, whether the plaintiffs have a share under Mohammedan Law, and whether the petitioner has acquired rights as a bona fide purchaser are disputed questions of fact, which cannot be gone into at the stage of Order VII Rule 11 CPC.

7. Citing binding precedents, it was submitted that the court should not conduct a mini trial at the threshold, and that disputed factual issues can be adjudicated only at the stage of trial. Learned counsel submitted that the trial court applied the correct legal principles and there is no infirmity in the impugned order warranting interference. Hence, on these grounds, he prayed that the petition be dismissed.

8. Heard the learned counsel for the parties and perused the material on record.

9. The question that arises for consideration is:

"Whether the impugned order rejecting I.A.No.X under Order VII Rule 11 CPC suffers from any error of law or jurisdiction warranting interference in revision?"

10. It is settled law that while considering an application under Order VII Rule 11 CPC, the court has to examine only the averments in the plaint and not the defence or counter-case set up by the defendant. The Supreme Court in **SRIHARI HANUMANDAS TOTALA V. HEMANT VITHAL KAMAT AND SHAKTI BHOG FOOD INDUSTRIES LTD. V. CENTRAL BANK OF INDIA** reported in **AIR 2021 SC 3802** has emphasized that:

- a. The plaint alone must be seen to determine if it discloses a cause of action;*
- b. The defence in the Written Statement is not relevant at this stage;*
- c. No attempt should be made to decide contested questions of fact.*

11. In the present case, the plaint contains clear averments that respondents/plaintiffs are daughters of the deceased Ainoddin, that succession opened upon his death, and that they are entitled to claim partition. At this stage, the court is not required to examine whether the properties were in fact standing in Hazaratsab's name or whether plaintiffs are excluded under Mohammedan Law.

12. The question of title and rights under personal law are triable issues of fact and law, which require evidence to be led and cannot be determined at the threshold under Order VII Rule 11 CPC.

13. Furthermore, the appellant being a pendente lite purchaser acquires only such rights as were available in the vendor, and her protection as a bona fide purchaser is subject to the final right of the parties in the suit. The trial court applied the correct legal principles and there is no illegality or perversity in its order.

14. For the reasons stated above, no case is made out for interference in this revision. The impugned order

does not suffer from any jurisdictional error or material irregularity.

15. Accordingly, this court proceeds to pass the following:

ORDER

- i) The Civil Revision Petition is dismissed.
- ii) The order dated 01.10.2022, passed by the Principal Civil Judge & JMFC, Jamkhandi in O.S. No.133/2017, rejecting I.A.No.X is hereby confirmed.

No order as to costs.

**Sd/-
(DR. K.MANMADHA RAO)
JUDGE**

MBS,CT:VP