



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF JUNE, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CIVIL REVISION PETITION NO. 106 OF 2026 (IO)

BETWEEN:

1. SMT. NINGAMMA
AGED ABOUT 70 YEARS,
W/O LATE THIMMEGOWDA,
2. SRI. S.T. HUCHEGOWDA
AGED ABOUT 61 YEARS,
S/O LATE THIMMEGOWDA,
3. SRI. S.T. UMADEVI
AGED ABOUT 59 YEARS,
D/O LATE THIMMEGOWDA,
4. SRI. S.T. NAGARAJU
AGED ABOUT 56 YEARS,
S/O LATE THIMMEGOWDA,

PETITIONERS NO.1 TO 4 ARE
R/AT SIDDIAHNAKOPPALU VILLAGE,
KOTHATHI HOBLI,
MANDYA TALUK AND DISTRICT - 571 402

...PETITIONERS

(BY SRI. P. NATARAJU, ADVOCATE)



AND:

1. SMT. SHANTHAMMA
AGED ABOUT 66 YEARS,
W/O LATE THIMMEGOWDA,
R/AT SIDDAIAHNAKOPPALU VILLAGE,
KOTHATHI HOBLI,
MANDYA TALUK AND DISTRICT - 571 402
2. SMT. S.T. THAYAMMA
AGED ABOUT 48 YEARS,
D/O LATE THIMMEGOWDA,
R/AT SHAMBHUNAHALLI VILLAGE,
GORAVAL POST, DUDDA HOBLI,
MANDYA TALUK AND DISTRICT - 571 405
3. S.T. SUSHEELA
AGED ABOUT 46 YEARS,
D/O LATE THIMMEGOWDA,
R/AT HOLALU VILLAGE,
DUDDA HOBLI,
MANDYA TALUK AND DISTRICT - 571 405
4. S.T. PAVITHRA
AGED ABOUT 38 YEARS,
D/O LATE THIMMEGOWDA,
R/AT URMARAKASALAGERE VILLAGE,
KOTHATHI HOBLI,
MANDYA TALUK AND DISTRICT - 571 402

...RESPONDENTS

THIS CRP IS FILED U/S. 115 OF CPC PRAYING TO SET
ASIDE THE ORDER DATED 03.11.2025 PASSED ON IA NO. IV
IN OS NO. 191/2023 ON THE FILE OF THE II ADDITIONAL



SENIOR CIVIL JUDGE AND JMFC, MANDYA, REJECTING THE IA NO. IV FILED U/O 7 RULE 11 OF CPC FOR REJECTION OF PLAINT.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

The present petition is filed aggrieved by the order dated 03.11.2025 passed in IA No. IV under Order VII Rule 11 of the CPC in O.S. No. 191/2023 by the II Additional Senior Civil Judge and JMFC, Mandya. The defendants in the suit are before this Court.

2. The respondents herein have filed a suit for partition. In the said suit, the petitioners herein, who are the defendants, filed IA No.IV under Order VII Rule 11 of CPC seeking rejection of the Plaint on the grounds that the second wife and her children are not entitled to partition. It is their contention that there is already an earlier oral partition and, as such, the present suit is not maintainable. By order impugned, the Trial Court dismissed the said application.



3. While rejecting the application, the Trial Court observed that it had carefully gone through the averments made in the plaint. It further held that it is settled law that, in order to reject the plaint, the Court has to consider the averments of the plaint only and not any written statement or defence taken by the defendants. The contention of defendant Nos. 1 to 4 that the plaint has to be rejected as partition already held and this aspects needs evidence. As the Trial Court did not find any material to reject the plaint, the application is not maintainable and was dismissed.

4. Learned counsel appearing for the petitioners submits that already is an earlier oral partition, an extent of 0.29 guntas given to the respondents. The second wife and her children are not entitled and cannot be treated as coparceners. On this ground, the suit itself is not maintainable and the same has to be rejected under Order VII Rule 11 of CPC. It is submitted that these aspects have not been properly considered by the Trial Court.

5. Having heard the learned counsel for the petitioners, perused the material on record. This Court finds



that the suit is for partition. It is an admitted fact that the plaintiffs are the second wife and children of the deceased and have sought partition of the suit schedule properties. The Trial Court has rightly held that, while rejecting the application under Order VII Rule 11 of CPC, the Trial Court can consider the plaint averments. But not the statement that are made along with the written statement. According to the respondents, there is an oral partition. The trial Court held that they did not find any plea regarding oral partition in the plaint. The question is whether the plaintiffs are entitled to 0.29 guntas, or whether they are entitled at all; it has to be decided by way of a full-fledged trial on the basis of the evidence adduced by the parties. But not at this stage and the Trial Court has rightly dismissed the application. Therefore, this Court finds no reason to interfere with the order passed by the Trial Court.

6. In view of the above discussions, this Court is passing the following:

ORDER

- i. Accordingly, the Civil Revision petition is ***dismissed***.



NC: 2026:KHC:31155
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- ii. Pending IAs., if any shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

SMC
List No.: 1 Sl No.: 22