



CNR: KAHC010147292026

NC: 2026:KHC:38977
CRP No. 187 of 2026



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JULY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CIVIL REVISION PETITION NO. 187 OF 2026

BETWEEN:

1. SRI SHAMIR
S/O LATE. AMEER JAN@ AMEER KHAN,
AGED ABOUT 35 YEARS,
RESIDING AT JODIDARAGALLI,
9TH WARD, BEHIND MARIGAMMA TEMPLE,
GAURIBIDANUR TOWN
CHIKKABALLAPURA-561 208
2. SMT. SUMIYA
W/O SHAMIR
AGED ABOUT 34 YEARS,
R/AT CHIKKA KHADAR
SABI GALLI, WARD NO.9
GAURIBIDANUR TOWN.
CHIKKABALLAPURA-561 208

...PETITIONERS

(BY SRI. SANNAKKI UDAY KUMAR, ADVOCATE)

Digitally signed
by SUVARNA T
Location: HIGH
COURT OF
KARNATAKA

AND:

1. NISAR AHMED
S/O LATE. RAZAK SAB,
AGED ABOUT 63 YEARS,
R/AT ANJINEYA SWAMY TEMPLE,
NADIGADDE, GAURIBIDANUR TOWN.
CHIKKABALLAPURA-561 208
2. SMT. MAMTHAZ UNNESSA,
D/O LATE ABDUL GAFAR KHAN,



CNR: KAHC010147292026

NC: 2026:KHC:38977
CRP No. 187 of 2026

W/O BASHASAB,
AGED ABOUT 69 YEARS
R/AT THUBAGERE VILLAGE,
THUBAGERE HOBLI,
DODDABALLAPUR TALUK,
BANGALORE RURAL DISTRICT-561 203

3. SRI. CHANDA BASHA,
S/O LATE. KARIM SAB,
AGED ABOUT 55 YEARS,
R/AT HALEHALLI VILLAGE
MANCHENAHALLI HOBLI,
GAURIBIDANUR TALUK.
CHIKKABALLAPURA-561 208

4. SRI. BASHEER SAB,
SON OF LATE. KARIM SAB,
SINCE DEAD BY HIS LR'S
SMT. ZAREEN
W/O BASHEER SAB,
AGED ABOUT 53 YEARS

5. SRI RAFEEQ
S/O BASHEER SAB,
AGED ABOUT 28 YEARS

6. SRI NOORULLA
S/O BASHEER SAB,
AGED ABOUT 25 YEARS,

RESPONDENTS NO.4 TO 6
ARE R/AT LEPAKSHI VILLAGE,
LEPAKSHI HOBLI,
HINDUPURAM TALUK,
ANANTHAPURAM DISTRICT-515 331

7. SMT. THEHARABHI,
W/O AMEER KHAN,
SINCE DEAD BY HER L.RS
SMT.DILSHAD



CNR: KAHC010147292026

NC: 2026:KHC:38977
CRP No. 187 of 2026

AGED ABOUT 44 YEARS,

8. SMT. SHAMEEN
AGED ABOUT 41 YEARS,
D/O AMEER KHAN
9. SMT. SADIQA
AGED ABOUT 38 YEARS,
D/O AMEER KHAN
10. SMT. YASMIN
AGED ABOUT 46 YEARS,
D/O AMEER KHAN

RESPONDENT NO.7 TO 10 ARE
R/AT JODIDARAGALI, 9TH WARD,
BEHIND MARAMMA TEMPLE,
GAURIBIDANUR TOWN-561 208

11. SRI BASHA
SON OF LATE. ABDUL GAFAR,
SINCE DEAD BY HIS L.RS.
SMT. RESHMA
D/O BASHA
AGED ABOUT 28 YEARS
R/AT RAJASAB STREET,
GAURIBIDANURU TOWN
CHIKKABALLAPUR-561 208
12. SRI SHAFIULLA
S/O LATE ABDUL GADAR
SINCE DEAD BY HIS LRS
SMT.GULLNZE
W/O LATE SHAFIULLA
AGED ABOUT 48 YEARS
13. SRI. MOHAMAD SUHAIL
S/O LATE SHAFIULLA
AGED ABOUT 29 YEARS



CNR: KAHC010147292026

NC: 2026:KHC:38977
CRP No. 187 of 2026

14. SRI.SHUBAIB
S/O LATE SHAFIULLA
AGED ABOUT 22 YEARS

RESPONDENTS 12 TO 14 ARE
R/AT KIRANGUR VILLAGE,
SREERANGAPATNA TALUK,
MANDYA DISTRICT-571 438
15. SRI. RIYAZ,
S/O LATE. AMEER JAN @ AMEER KHAN,
AGED ABOUT 39 YEARS,
R/AT JODIDARAGALLI, 9TH WARD,
BEHIND MARIGAMMA TEMPLE,
GAURIBIDANUR TOWN
CHIKKABALLAPURA-561 208
16. SMT. DILSAD UNNESSA,
W/O BASHA SAB,
D/O ABDUL GAFAR SAB
SINCE DEAD BY HIS L.RS
SRI. BASHA
S/O LATE DAVUD SAB,
AGED ABOUT 54 YEARS
17. SMT. YASMEEN TAJ
D/O DIL SAD UNNESSA
AGED ABOUT 34 YEARS
18. SMT.PARVEEN TAJ
D/O DIL SAD UNNESSA
AGED ABOUT 31 YEARS
19. SRI.ISMAIL
S/O DIL SAD UNNESSA
AGED ABOUT 38 YEARS
20. SRI.NOORULLA
S/O DIL SAD UNNESSA
AGED ABOUT 26 YEARS



CNR: KAHC010147292026

NC: 2026:KHC:38977
CRP No. 187 of 2026

RESPONDENTS 16 TO 20
ARE R/AT THUBAGERE VILLAGE,
THUBAGERE HOBLI,
DODDABALLAPUR TALUK,
BANGALORE RURAL DISTRICT-561 203

21. SRI. SURENDRA. P
S/O BYAPPA REDDY,
AGED ABOUT 40 YEARS,
R/AT MANAGONDLU VILLAGE,
D.PALYA HOBLI,
GAURIBIDANURU-561 208
22. SRI. BABAJAN,
S/O LATE. AMEER JAN@ AMEER KHAN,,
AGED ABOUT 38 YEARS,
R/AT JODIDARAGALLI, 9TH WARD,
BEHIND MARIGAMMA TEMPLE,
GAURIBIDANUR TOWN.
CHIKKABALLAPURA-561 208
23. SMT. SUMIYA,
D/O LATE SHAFIULLA,
AGED ABOUT 25 YEARS,
R/AT KIRANGUR VILLAGE,
SREERANGAPATNA TALUK,
MANDYA DISTRICT – 571 438

...RESPONDENTS

(R1 IS SERVED
NOTICE TO R2 TO R23 ARE DISPENSED WITH V/O/D:
02/07/2026)

THIS CRP FILED UNDER SEC.115 OF CPC., AGAINST THE
ORDER DATED 17.12.2024 PASSED ON IA IN FDP NO.1/2022
ON THE FILE OF PRL. CIVIL JUDGE AND JMFC,
GAURIBIDANUR., DISMISSING THE IA FILED UNDER ORDER
VII RULE 11(d) R/W SEC.151 OF CPC., FOR REJECTION OF
PLAINT.



THIS PETITION HAVING BEEN HEARD AND RESERVED ON 15.07.2026, COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CAV ORDER

The petitioners herein, who are respondents in FDP No.1/2022, are aggrieved by the order dated 17.12.2024 passed in I.A.No.9/2024 by the Principal Civil Judge and JMFC, Gauribidanur.

2. The facts of the case are that respondent No.2 herein has filed suit for partition and separate possession in O.S.No.259/2008 before the Principal Civil Judge and JMFC, Gauribidanur. In that, a preliminary decree was passed on 21.04.2012. Then respondent No.2 herein had initiated the final decree proceedings i.e. FDP No.19/2013. It is the case of the petitioners that the registered relinquishment deeds were executed in favour of the petitioners on different dates. On 15.03.2022, the final decree was passed by trial Court in FDP No.19/2013 having settled based on a compromise decree



jointly filed by the plaintiff and defendants. Respondent No.1 filed FDP No.1/2022 on 25.04.2025. The petitioner has filed his objection under Order VII Rule 11(a) read with Section 151 CPC seeking rejection of the petition. That came to be dismissed by order impugned.

3. While dismissing the application, the trial Court has observed that a petition is filed by the petitioner/defendant No.9 seeking a final decree to be drawn in respect of his share as per the judgment and decree passed in O.S.No.259/2008. The petitioner has produced a certified copy of the judgment passed by this Court in O.S.No.259/2008 and as rightly pointed out by the learned counsel, the court in paragraph No.21 of the judgment had observed that the petitioner/defendant No.9 is entitled to 1/6th share of his mother's property. It is further observed that the trial Court did not specifically mention the share to which petitioner/defendant No.9 was entitled as they did not pay any court fee for the allotment of his share. It is a well settled principle of law that a final decree proceeding is an extension of the original suit and the petitioner is entitled to pay the requisite court fee at any time during pendency of the



CNR: KAHC010147292026

proceedings. On perusal of the judgment and decree passed by the Court in O.S.No.259/2008, it is evident that the Court has clearly observed that the petitioner/defendant No.9 is entitled to 1/6th share of his mother's property. The specific ratio of the share to which the petitioner is entitled is to be decided in the final decree proceedings and respondent No.1 is at liberty to cross-examine the petitioner and his witnesses in that regard. The court is of the view that respondent No.10 has not made out any sufficient grounds for rejection of the petition by exercising the powers conferred under Section VII Rule 11 CPC and accordingly dismissed the petition on costs of Rs.300/-. Aggrieved thereby, the petitioners who are the respondents before the trial Court are before this Court.

4. Learned counsel appearing on behalf of the petitioner submits that the order impugned is illegal and arbitrary. The trial Court has failed to exercise the jurisdiction vested in it while considering the application filed under Order VII Rule 11(a) CPC and mechanically rejected the same without examining whether the final decree petition discloses any cause of action. It is stated that the final decree proceedings does not



disclose any subsisting or enforceable cause of action. Once FDP No.19/2013 was dismissed on the basis of compromise, no right survived for respondent No.1 to institute a fresh final decree proceedings. He relied on the judgment of the Apex Court reported in the case of ***Dahiben Vs. Arvindbhai Kalyanji Bhanusali (Gajra) dead through Legal representatives and others¹***. It is submitted that the trial Court has failed to consider the preliminary decree dated 21.04.2012 passed in favour of respondent No.1. Respondent No.1 had no declared share under any such judgment and decree passed by the trial Court and only the decree holders are entitled to seek final decree proceedings. In the absence of any decree in his favour, respondent No.1 lacks the *locus standi* and the FDP proceedings itself is not maintainable. Learned counsel submits that the trial court without considering all these aspects, has dismissed the application.

5. Notice to respondent No.1 is served, but no vakalath is filed on his behalf. Notice to respondent Nos.2 to 23 was dispensed with by order dated 02.07.2026.

¹ (2020) 7 SCC 366



CNR: KAHC010147292026

NC: 2026:KHC:38977
CRP No. 187 of 2026

6. In the light of the order passed by the trial Court and the contentions put forth before this Court, the issue for consideration before this Court is ***"whether an application under Order VII Rule 11 of the CPC is maintainable in final decree proceedings?"***

7. Before proceeding with the matter, it is appropriate to look at Order VII Rule 11 CPC, which reads thus:

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 returned 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;

1[(e) where it is not filed in duplicate;]

2[(f) where the plaintiff fails to comply with the provisions of rule 9:]



CNR: KAHC010147292026

NC: 2026:KHC:38977
CRP No. 187 of 2026

3[Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.]

8. Order VII Rule 11 CPC provides for rejection of a plaint on any one of the grounds enumerated therein. The jurisdiction conferred under the provision is 'circumscribed by the existence of a plaint before the Court'. The statutory power neither extends nor contemplates rejection of applications, petitions or proceedings which are not instituted by presentation of a plaint. A final decree is not an independent suit. It is the continuation of the original suit instituted by the presentation of the decree. Upon passing of the preliminary decree, the proceeding does not come to an end. What survives thereafter is a determination of the manner in which the rights already declared by the preliminary decree are to be effected, by drawing up the final decree. The final decree proceedings are only a continuation of the original proceedings and do not



CNR: KAHC010147292026

give rise to a fresh cause of action or a fresh suit. It is also a settled law that a partition suit continues until a final decree is passed and, in appropriate circumstances, even more than one preliminary decree may be passed before the final decree is drawn. The Hon'ble Apex Court time and again has held that the final decree proceedings are intended to work out the rights crystallised under the preliminary decree. A close reading of Order VII Rule 11 CPC makes it clear that the language employed in the provision demonstrates that it only operates in relation to a plaint.

9. When the statutory provision is read in the backdrop of the settled legal position governing the final decree proceedings, there remains little room for doubt that a final decree application cannot be equated with a plaint. Consequently, there exists no statutory foundation for invoking Order VII Rule 11 CPC in final decree proceedings.

10. If a party seeks to contend that the final decree proceedings are bad by law or otherwise not maintainable due to jurisdiction or suffers from any infirmity, they are always at liberty to raise those objections. However, they are required to



examine the provisions governing final decree proceedings or, where applicable, the Court's inherent jurisdiction. But those objections cannot be projected through the procedural device of an application under Order VII Rule 11 CPC, which is confined exclusively to the rejection of a plaint. The restriction is not one of form alone, but of jurisdiction. A Court cannot exercise statutory power beyond the field explicitly occupied by the statute. Since no plaint exists in the final decree proceedings, the jurisdiction to invoke Order VII Rule 11 CPC is absent. Hence, in the considered opinion of the Court, an application that is filed under Order VII Rule 11 CPC to reject the final decree proceedings cannot be entertained, and the Court has rightly dismissed the application. Such an application is legally misconceived and procedurally not maintainable. Hence, this Court finds no reasons to interfere with the order passed by the trial Court. Accordingly, this Court is passing the following order:

ORDER

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



**NC: 2026:KHC:38977
CRP No. 187 of 2026**

CNR: KAHC010147292026

- ii. However, it will not preclude the petitioner from raising all such objections to the maintainability of the final decree proceeding as available under law and the trial Court shall consider the same, uninfluenced by any of the observations made by this Court while considering the application.
- iii. All I.As. in this petition shall stand closed.

**SD/-
(LALITHA KANNEGANTI)
JUDGE**

PKN
List No.: 1 Sl No.: 1