

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

REGULAR FIRST APPEAL NO.1230 OF 2025 (RES)

BETWEEN:

MR. VASANTH SHENOY
S/O. P. RADHAKRISHNA SHENOY
AGED ABOUT 51 YEARS
RESIDING AT 104, 1ST FLOOR
MITHILA APARTMENTS
KARANGALPADY MARKET ROAD
MANGALURU-575 003.

...APPELLANT

(BY SRI AJAY PRABHU M., ADVOCATE)

AND:

1. THE KARNATAKA BANK LIMITED
REPRESENTED BY DIRECTOR, CEO
BANKING COMPANY ESTABLISHED
UNDER THE BANKING COMPANIES ACT, 1955
HAVING ITS REGISTERED OFFICE
SITUATED AT MAHAVEERA CIRCLE
KANKANADY, MANGALURU-2.
2. MR. MAHABALESHWARA M.S.
MANAGING DIRECTOR AND C.E.O
PRESENTLY WORKING AT
KARNATAKA BANK LTD. H.O.
MAHAVEERA CIRCLE, KANKANDY.
MANGALURU-2.
3. MR. P. JAYARAMA BHAT
CHAIRMAN
PRESENTLY WORKING AT
KARNATAKA BANK LTD. H.O.
MAHAVEERA CIRCLE, KANKANADY
MANGALURU-2.

Digitally
signed by
RAKSHA
Location:
High Court
of
Karnataka

4. MR. ASHOK HARANAHALLI
DIRECTOR
KARNATAKA BANK LTD. H.O.
MAHAVEERA CIRCLE, KANKANADY
MANGALURU-2.
5. MR. RAMMOHAN RAO BELLE
DIRECTOR
KARNATAKA BANK LTD.
MAHAVEERA CIRCLE, KANKANADY
MANGALURU-2.
6. MR. B.A. PRABHAKAR
DIRECTOR, KARNATAKA BANK LTD.
MAHAVEERA CIRCLE, KANKANADY
MANGALURU-2.
7. MR. ULLAL RAVINDRA BHAT
DIRECTOR
KARNATAKA BANK LTD.
MAHAVEERA CIRCLE, KANKANADY
MANGALURU-2.
8. MR. KESHAV KRISHNARAO DESAI
DIRECTOR
KARNATAKA BANK LTD.
MAHAVEERA CIRCLE, KANKANADY
MANGALURU-2.
9. MR. SURENDRA KUMAR
DIRECTOR
KARNATAKA BANK LTD.
MAHAVEERA CIRCLE, KANKANADY
MANGALURU-2.
10. MRS. MYTHILY RAMESH
DIRECTOR, KARNATAKA BANK LTD.
MAHAVEERA CIRCLE, KANKANADY
MANGALURU-2.
11. MR. SATHISH C.S.
ENQUIRY OFFICER
PRESENTLY WORKING AS CHIEF MANAGER
KARNATAKA BANK LTD.
ASSET RECOVERY MANAGEMENT BRANCH
39/2, 2ND FLOOR A.S.V.N.S. COMPLEX
K.G. ROAD
BENGALURU-560 009.

12. MR. M. RAGHAVENDRA BHAT
CHIEF GENERAL MANAGER
PRESENTLY WORKING AT
KARNATAKA BANK LTD. H.O.
MAHAVEERA CIRCLE, KANKANADY
MANGALURU-2.
13. MR. PRASANNA PATIL
COMPANY SECRETARY
PRESENTLY WORKING AT
KARNATAKA BANK LTD. H.O.
MAHAVEERA CIRCLE, KANKANADY
MANGALURU-2.
14. MR. MAHALINGESHWARA K.
GENERAL MANAGER
PRESENTLY WORKING AT
KARNATAKA BANK LTD. H.O.
MAHAVEERA CIRCLE KANKANADY
MANGALURU-2.

...RESPONDENTS

(BY SRI VIJAY KRISHNA BHAT M., ADVOCATE, FOR R-1, &
VIDE COURT ORDER DATED 4-3-2026, NOTICE TO R-2 TO
R-14 IS DISPENSED WITH)

* * *

THIS REGULAR FIRST APPEAL IS FILED UNDER SECTION 96 OF THE CODE OF CIVIL PROCEDURE, 1908, PRAYING TO SET ASIDE THE ORDER DATED 8-12-2023 PASSED ON I.A. NO.I FILED UNDER ORDER VII, RULE 11 OF CPC IN ORIGINAL SUIT NO.14 OF 2019 ON THE FILE OF THE I ADDITIONAL SENIOR CIVIL JUDGE AND C.J.M. AT MANGALURU, DAKSHINA KANNADA, AND CONSEQUENTLY, DISMISS THE APPLICATION IN THE INTEREST OF JUSTICE AND EQUITY.

THIS REGULAR FIRST APPEAL HAVING BEEN HEARD AND RESERVED ON 23.06.2026, COMING ON FOR PRONOUNCEMENT, THIS DAY, **VENKATESH NAIK T. J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE VENKATESH NAIK T

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE VENKATESH NAIK T)

The appellant has filed this appeal challenging the order dated 08.12.2023 passed by the learned I Additional Senior Civil Judge and Chief Judicial Magistrate at Mangaluru, Dakshina Kannada, on I.A. No.I filed by the defendants under Order VII, Rule 11 of the Code of Civil Procedure, 1908 (for short, 'CPC') in Original Suit No.14 of 2019, thereby allowing the application filed by the defendants, and consequently, rejected the plaint.

2. The brief facts of the case are as under:

The appellant-Sri Vasanth Shenoy was appointed as a Probationary Clerk by defendant No.1-The Karnataka Bank Limited on 23.12.1995 at Erode Branch in the State of Tamil Nadu. Thereafter, he was promoted and transferred to various places from the year 2001 to 2009. In view of the establishment of new Branch at Anna Nagar (West) in Chennai, the appellant was promoted as Branch Manager and posted to the said Branch and worked there

from 14.11.2009 to 23.04.2013. The appellant was transferred to Besant Nagar Branch, Chennai, as Senior Branch Manager from 23.04.2013 till 30.04.2014 and later, he worked as Senior Branch Manager in Mount Road Branch from 01.05.2014 to 29.04.2015 and later, the appellant was transferred to Staff Training College, Mangaluru, and he worked there from 02.05.2015 to 23.06.2018. The appellant was terminated from service on 23.06.2018 on the ground of misconduct. Hence, the appellant filed a suit seeking damages of Rs.10 crore from the defendants with an interest at the rate of 15% from the date of petition till the date of realisation.

3. After initiation of the suit, the defendants appeared through their counsel and filed I.A. No.I under Order VII, Rule 11 of CPC for rejection of the plaint, as it does not make out a cause of action for suing for compensation/damages by an ex-employee against the employer, as relief of declaration has not been sought.

4. *Per contra*, the plaintiff had filed counter contending that the application filed under Order VII, Rule

11 of CPC does not disclose any requirement of law to reject the plaint. Further, the circumstances that led to filing of the suit for damages are pleaded in detail in the plaint and also contended that only to avoid their liability, the defendants have filed I.A. No.I for rejection of the plaint. Thus, the learned counsel prayed to reject the I.A.

5. Considering the plaint averments, the trial Court framed a point for consideration and answered in the affirmative holding that there was no cause of action for the suit. Accordingly, the trial Court allowed the I.A. and rejected the plaint under Order VII, Rule 11(a) of CPC for want of cause of action.

6. Being aggrieved by the order of the trial Court, the appellant has preferred this appeal.

7. Heard the learned counsel appearing for the appellant-plaintiff and the learned counsel appearing for respondent No.1-defendant No.1.

8. Sri Ajay Prabhu M., learned counsel appearing for the appellant-plaintiff, has contended that the order

passed by the trial Court is unjust and contrary to law. The findings of the trial Court is erroneous, patently perverse, capricious and in contrary to the provisions of CPC. The trial Court proceeded to dispose off the suit hurriedly and rejected the plaint, which is perverse findings and without application of judicious mind.

9. Learned counsel has further contended that the appellant was an employee of a private Bank, being aggrieved by the illegal and unlawful termination of service, has filed the suit for damages. The plaint cannot be rejected on the basis of allegations made by the defendants in their written statement or in an application for rejection of the plaint. The trial Court has not read the entire plaint as a whole to find out whether it discloses a cause of action or not. In this case, the cause of action is a bundle of facts, which are required to be proved for obtaining relief and for the said purpose, the material facts are required to be stated, but not the evidence.

10. Learned counsel has further contended that in exercise of administrative power, the Authority conducted

inquiry proceedings against the delinquent official in a manner which is inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of enquiry or where the conclusion or finding reached by the disciplinary Authority based on no evidence. Under such circumstances, the trial Court committed an error in rejecting the plaint under order VII, Rule 11(a) of CPC on the ground that there was no cause of action for the suit.

11. Further, the plaintiff has specifically pleaded in the plaint as to how the defendants have played fraud on him, how he was victimized, how inquiry was proceeded against him, and ultimately, the Bank terminated him from the service, etc. Thus, there is specific pleading as to the cause of action for the suit and how he sustained damages in view of his termination from service. The plaintiff has specifically pleaded that on account of his illegal termination, he has claimed damages against the defendants and all contentions are available in the pleadings, but only relief of declaration was left out by

omission. On this count alone, the plaint cannot be rejected on the basis of allegations made by the defendants in their written statement or in an application for rejection of the plaint and thus, a detail probe is required to prove the case of the plaintiff. Accordingly, the learned counsel prays to allow the appeal, reject I.A. No.I filed under Order VII, Rule 11(a) of CPC and to restore the suit.

12. Further, the learned counsel contends that the plaint details the grounds against the enquiry report and the order of punishment and as to how the termination is illegal. It is contended that the only omission was to make a specific prayer for a declaration that the termination is illegal and that all other details are available in the plaint.

13. In support of his arguments, the learned counsel relied on the decision in the cases of **MAYAR (H.K.) LTD. AND OTHERS v. OWNERS AND PARTIES, VESSEL M.V. FORTUNE EXPRESS AND OTHERS** reported in **AIR 2006 SC 1828** and **SAJJAN SINGH v. JASVIR**

KAUR AND OTHERS in ***Civil Appeal No.4221 of 2023***
disposed off ***on 6-7-2023***.

14. *Per contra*, Sri Vijay Krishna Bhat, learned counsel appearing for respondent No.1-defendant No.1-Bank, has vehemently contended that the appellant-plaintiff was an ex-employee of the private sector Bank, which normally would be governed by the terms of the contract between the parties. Since there is no written contract between the parties on record, the dispute cannot be resolved with reference to any terms and conditions governing the relationship between the parties. The appellant has neither pleaded, nor made any effort on his part to show that the impugned order of dismissal was in violation of any terms of his employment. However, he has only pleaded that there was no allegation against him regarding receiving fake gold during his tenure.

15. Learned counsel further contended that the appellant is seeking damages from the defendants. The only remedy available for the appellant was to seek declaration of his termination as wrongful, with

consequential relief of the damages for wrongful termination. Without seeking the said relief of declaration, the suit could not be maintainable. The trial Court has ventured into area and rightly dismissed the suit filed by the appellant. Hence, the learned counsel prays to dismiss the appeal.

16. In support of his arguments, the learned counsel relied on the decision in the cases of **PUNJAB NATIONAL BANK v. V.K. GANDOTRA** reported in **2025 Supreme (J&K) 102** and **MAHARASHTRA STATE COOPERATIVE HOUSING FINANCE CORPORATION LIMITED v. PRABHAKAR SITARAM BHADANGE** reported in **(2017) 5 SCC 623**.

17. In view of the submissions made by the learned counsel for both the parties, we frame the following point for consideration:

Whether the trial Court is right in rejecting the plaint under Order VII, Rule 11(a) of CPC for want of cause of action?

18. The appellant-plaintiff had filed the suit seeking damages of Rs.10 crore from the respondents-defendants with interest at the rate of 15% per annum from the date of the suit till its realisation. The records reveal that defendant No.1 is a private sector scheduled commercial Bank. Defendant Nos.2 to 10 are its Directors, including the Chairman and Managing Director. Defendant No.11 is an Enquiry Officer of the Bank. Defendant Nos.12 to 14 are the Executives of the Bank. During the relevant time, the appellant was working as a Senior Manager of defendant No.1-Bank. As the appellant committed some financial irregularities when he was working at Chennai, the disciplinary proceedings were conducted against him. Defendant No.11 was appointed as Enquiry Officer, he held enquiry and submitted his report. As per the report, allegations were proved and the appellant was guilty of the charges. Hence, on 16.03.2018, defendant No.1-Bank terminated the services of the appellant based on the inquiry report. Later, the appellant filed a departmental appeal before the competent Authority and the same was

dismissed. Hence, the plaintiff filed the suit for damages on account of illegal termination.

19. Learned counsel for the appellant-plaintiff brought to our notice as to the factual and legal aspects and contended that the plaint contain specific pleadings and grounds as against the enquiry held against him and the order of termination. However, by an omission, there was no prayer made to declare that the termination of service of the plaintiff was legally invalid. Learned counsel referred to paragraph Nos.8, 9, 10, and 13 of the plaint and contended that the plaintiff had clearly alleged that the findings recorded by the Enquiry Officer on the charges are illegal and motivated by malafide. It was also contended that procedure of conduct of a disciplinary enquiry were openly flouted and the proceedings were violative of the principles of natural justice. It is stated that the appeal was also rejected without hearing him. Hence, it is just and necessary to go into the contents of the plaint.

20. A perusal of the plaint clearly demonstrates that no relief of declaration has been sought to the effect that the inquiry report is null and void, or that the order of termination is null and void. Further, respondent No.1-defendant No.1 is a private sector scheduled commercial Bank and the appellant was serving as Senior Branch Manager in one of the Branches of the said Bank. Thus, after termination, the appellant was not an employee protected by the industrial law. In the plaint, the appellant has narrated that respondent No.1-Bank has its own rules of discipline and enquiry was conducted as well as appeal was filed under the same, viz., the Karnataka Bank Officers Service Rules. However, the appellant has not challenged the proceedings or the order of termination, as the same is not permissible under the law. In case, if contract of employment is wrongfully terminated, an employee can claim damages. In the present case, the case of the appellant is not of such instance. The appellant has also challenged the order of termination before the Appellate Authority and he was unsuccessful. Now, the

appellant contended that the order of termination, which was an outcome of the disciplinary proceedings, amounts to illegal termination.

21. The Hon'ble Apex Court in **Mayar (H.K.) Ltd. and Others** (*supra*) at paragraph Nos.11 and 16 held as under:

"11. From the aforesaid, it is apparent that the plaint cannot be rejected on the basis of the allegations made by the defendant in his written statement or in an application for rejection of the plaint. The trial Court has to read the entire plaint as a whole to find out whether it discloses a cause of action and if it does, then the plaint cannot be rejected by the Court exercising the powers under Order VII, Rule 11 of Code. Essentially, whether the plaint discloses a cause of action, is a question of fact which has to be gathered on the basis of the averments made in the plaint in its entirety taking those averments to be correct. A cause of action is a bundle of facts which are required to be proved for obtaining a relief and for the said purpose, the material facts are required to be stated but not the evidence, except in certain cases where the

pleadings relied on are regard to misrepresentation, fraud, willful default, undue influence or of the same nature. So long as the plaint discloses some cause of action, which requires determination by the Court, mere fact that in the opinion of the Judge, the plaintiff may not succeed cannot be a ground for rejection of the plaint. In the present case, the averments made in the plaint as has been noticed by us, do discloses the cause of action and therefore, the High Court has rightly said that the powers under Order VII, Rule 11 of the Code cannot be exercised for rejection of the suit filed by the plaintiffs-appellants.

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16. As per Order VI, Rule 2 of CPC, every pleading should contain only a statement in a concise form of the material facts on which the party relies for his claim or defence, as the case may be. Thus, the facts, on which the plaintiff relies to prove his case, have to be pleaded by him. Similarly, it is for the defendant to plead the material facts on which his defence stands. The expression 'material facts' has not been defined anywhere, but from the wording of Order VI, Rule 2 of CPC, the material facts would be

upon which a party relies for his claim or defence. The material facts are facts upon which the plaintiff's cause of action or defendant defence depends on the facts which must be proved in order to establish the plaintiff's right to the relief claimed in the plaint or the defendant defence in the written statement. Which particular fact is a material fact and is required to be pleaded by a party would depend on the facts and circumstances in each case."

22. In the case of **MAHARASHTRA STATE COOPERATIVE HOUSING FINANCE CORPORATION LIMITED** (*supra*), the Hon'ble Apex Court at paragraph Nos.9 and 10 has held as under:

"9. We may also clarify one more aspect. Contract of personal services is not enforceable under the common law. Section 14, read with Section 41(e) of the Specific Relief Act, 1963, specifically bars the enforcement of such a contract. It is for this reason the principle of law which is well established is that the civil court does not have the jurisdiction to grant relief of reinstatement as giving of such relief would amount to enforcing the contract of personal services. However, as laid down in the cases referred to above, and also in Vaish Degree

College v. Lakshmi Narain, (1976) 2 SCC 58, there are three exceptions to the aforesaid rule where the contract of personal services can be enforced:

(a) in the case of a public servant who has been dismissed from service in contravention of Article 311 of the Constitution of India;

(b) in the case of an employee who could be reinstated in an industrial adjudication by the Labour Court or an Industrial Tribunal; and

(c) in the case of a statutory body, its employee could be reinstated when it has acted in breach of the mandatory obligations imposed by the statute.

10. *Even when the employees falling under any of the aforesaid three categories raise dispute qua their termination, the civil court is not empowered to grant reinstatement and the remedy would be, in the first two categories, by way of writ petition under Article 226 of the Constitution or the Administrative Tribunal Act, as the case may be, and in the third category, it would be under the Industrial Disputes Act. An employee who does not fall in any of the aforesaid exceptions cannot claim reinstatement. His only remedy is to file a suit in the*

civil court seeking declaration that termination was wrongful and claim damages for such wrongful termination of services. Admittedly, the appellant Corporation is not "State" under Article 12 of the Constitution. The respondent also cannot be treated as a government/public servant as he was not under the employment of any Government. He was also not "workman" under the Industrial Disputes Act as he was working as Manager with the appellant Corporation."

23. In the light of the ratio laid down in the aforesaid decisions, the learned counsel for respondent No.1-Bank contended that the only remedy available for the appellant-plaintiff was to seek declaration of his termination as wrongful, with consequential relief of the damages for wrongful termination. Without seeking the said relief of declaration, the suit could not be held as maintainable and thus, the suit is a simplicitor for recovery of damages is not maintainable without seeking the relief of declaration.

24. The present case is of a private employee which normally would be governed by the terms of the contract

between the parties. Since there is no written contract between the parties on record, the dispute cannot be resolved with reference to any terms and conditions governing the relationship between the parties.

25. A perusal of the plaint at paragraph Nos.8, 9, 10 and 13, it clearly discloses that the appellant pleaded as to the role played by the officials of the Bank and his innocence. He also pleaded that the Bank has conducted internal vigilance enquiry, which is in the nature of wrongful act and illegally proceeded with. Thus, from the aforesaid pleadings, more particularly, at paragraph Nos.8, 9, 10 and 13, it is apparent that the plaintiff has pleaded the termination as illegal. Therefore, the plaint cannot be rejected on the basis of the allegations made by the defendants in their written statement or in an application for rejection of the plaint. The trial Court ought to have read the entire plaint, as a whole, to find out whether, it discloses the cause of action and if it does, then the plaint cannot be rejected under Order VII, Rule 11 of CPC. Essentially, whether the plaint discloses a cause of action

is a question of fact, which has to be gathered on the basis of the pleadings made in the plaint in its entirety, those pleadings to be correct.

26. The Hon'ble Apex Court in the case of **SAJJAN SINGH** (*supra*) ruled that a plaint cannot be rejected under Order VII, Rule 11 of CPC simply because the plaintiff may not have claimed the most appropriate or exact relief. Further, it held that this is a matter to be decided during the actual trial, not at the preliminary threshold.

27. Therefore, to that extent, we are of the opinion that the trial Court was not justified in rejecting the plaint at threshold. Since there is a pleading with regard to illegal termination in the plaint, there is every chance to seek declaration by amending the prayer column. Therefore, an appropriate prayer has to be decided in the suit and not an issue to be considered while deciding the application under Order VII, Rule 11 of CPC.

28. The contentions, as put forth by the respondents-defendants, in application under Order VII, Rule 11 of CPC, is open to be taken up in the written statement and the trial Court shall frame an appropriate issues in that regard. All contentions are left open for the parties to be urged in that regard.

29. The appeal is, accordingly, **allowed**. The order of the trial Court is set aside and the suit is restored.

30. Pending applications, if any, shall stand dismissed.

No order as to costs.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(VENKATESH NAIK T)
JUDGE**

KVK