



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 24<sup>TH</sup> DAY OF JUNE, 2026**

**BEFORE**

**THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI**

**CIVIL REVISION PETITION NO. 390 OF 2025 (IO)**

**BETWEEN:**

1. NAGARAJ C  
S/O LATE CHENNAVEERAAIAH  
AGED ABOUT 68 YEARS

2. RENUKA D  
W/O C NAGARAJ  
AGED ABOUT 59 YEARS

BOTH R/AT NO.365  
3<sup>RD</sup> MAIN ROAD, RHC LAYOUT  
ANNAPURNESHWARI NAGAR  
SRIGANDHA KAVALU  
MAGADI ROAD,  
BENGALURU-560091.

3. MAHESH N  
S/O C NAGARAJ  
AGED ABOUT 40 YEARS  
R/AT NO.886, PAPAREDDY PALYA  
NAGARBHAVI,  
BENGALURU-560072.

4. JAGADEESH N  
S/O C. NAGARAJ  
AGED ABOUT 37 YEARS  
R/AT NO.365, 9<sup>TH</sup> CROSS,  
3<sup>RD</sup> MAIN ROAD, RHC LAYOUT  
ANNAPURNESHWARI NAGAR  
SRIGANDHA KAVALU,  
MAGADI ROAD



BENGALURU-560091.

...PETITIONERS

(BY SRI. PRASHANTH P.N., ADVOCATE)

**AND:**

1. ARJUN PRAKASH  
S/O JAGADISH N  
AGED ABOUT 10 YEARS  
REP. BY HIS NATURAL GUARDIAN  
POORNIMA S P  
D/O PRAKASH  
W/O JAGADISH N  
AGED ABOUT 36 YEARS  
R/AT SJT ROAD  
GAREHALLI, NEAR RAILWAY STATION  
CHITRADURGA.

2. MARUTHI G  
S/O LATE GANGANNA  
AGED ABOUT 38 YEARS  
R/AT NO.82, 1<sup>ST</sup> CROSS  
3<sup>RD</sup> MAIN ROAD,  
NEAR VOKKALIGARA SANGHA SCHOOL  
KOTTIGEPALYA, MAGADI ROAD  
BENGALURU-560091.

...RESPONDENTS

(R1 AND R2 SERVICE OF NOTICE HELD SUFFICIENT  
VIDE ORDER DATED 24.06.2026)

THIS CRP IS FILED UNDER SECTION 115 OF CPC,  
AGAINST THE ORDER DATED 15.02.2025 PASSED ON I.A.NO.2  
IN OS.NO.5305/2024 ON THE FILE OF THE XI ADDITIONAL  
CITY CIVIL AND SESSIONS JUDGE, BENGALURU CITY,  
REJECTING THE I.A.NO.2 FILED UNDER ORDER VII RULE 11(a)  
AND (d) OF CPC, FOR REJECTION OF PLAINT.

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



CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

**ORAL ORDER**

The present civil revision petition is filed aggrieved by the order dated 15.02.2025 on I.A.No.2 in O.S.No.5305/2024 by XI Additional City Civil and Sessions Judge, Bengaluru City, petitioners/defendant Nos.1 to 4 are before this Court.

2. Learned counsel appearing for the petitioners submits that the plaintiff is the grandson of defendant Nos.1 and 2. Defendant No.4 is the father of the petitioner. Defendant No.3 is the uncle of the plaintiff and defendant No.5 is the purchaser from defendant Nos.1 and 2.

3. It is the case of the plaintiff that the suit schedule Item No.1 was purchased in the name of defendant No.2 on 07.09.2000. The suit schedule Item No.2 was purchased in the name of defendant Nos.1 and 2 on 29.03.2012. The third and fourth defendants have also contributed the funds from their earnings to purchase the suit schedule properties and the properties are enjoyed by defendant Nos.1 to 4 as joint family properties. It is the case that defendant No.2 has executed a



sale agreement in favour of defendant No.5 on 29.04.2022 and as such the same is not binding on the plaintiffs and sought for a relief of partition. In that the defendants have filed an IA under Order VII Rule 11 CPC seeking rejection of the plaint on the ground that in the entire plaint, if there is any joint family property, whatever the funds that are derived from that, they have been used to purchase these properties. Except stating that the other defendants have contributed, nothing else has been stated. Even in the averments itself there is no pleadings with regard to the joint family property. Hence it is the case that the suit for partition is not maintainable.

4. The trial Court by order impugned had dismissed I.A. The trial Court observed that the plaintiff has claimed a share in the suit properties as a coparcener by birth under the Hindu Succession Act,1956. The plaintiff has also raised concerns about a sale agreement executed by defendant Nos.1 and 2 in favour of defendant No.5, which may affect his rights. These allegations indicate a prima facie cause of action. Since the plaintiff has made out a claim that requires adjudication, the suit cannot be rejected under Order VII Rule 11(a) of CPC.



It is also observed that when it is the case of the defendants that the suit is barred by law, but they have not specifically mentioned any clear legal provision that bars the suit. The plaintiff has relied on the judgment in the case of ***Vineet Sharma***, where the Hon'ble Supreme Court recognized that a son becomes a coparcener by birth. This indicates that the plaintiff has an arguable case. The issue of whether the suit properties are ancestral or self-acquired is a mixed question of law and fact, which requires evidence and the same cannot be considered in the application under Order VII Rule 11 CPC.

5. Learned counsel appearing for the petitioners submits that the plaintiff has nowhere stated that the particular properties are joint family properties or that the income derived from the said properties and the suit schedule properties were purchased by the defendants. Even according to them, these properties were purchased in the years 2000 and 2012 in the names of defendant Nos. 1 and 2. Basing on these issues, when specific contentions are raised by the defendants seeking rejection of the plaint, the trial Court failed to consider the



same and rejected the application without appreciating the facts as well as the law.

6. Notice to respondent Nos.1 and 2 was held insufficient, no vakalath was filed on behalf of them.

7. Having heard the learned counsel for the petitioner, perused the material on record. The grandson, aged about 10 years, is seeking partition, stating that those properties were purchased with contributions from defendant Nos. 1, 3 and 4. As rightly submitted by the learned counsel, the entire plaint contains no averment regarding the joint family properties and admittedly, these properties were purchased in the years 2000 and 2012. When the plaintiff has a specific ground regarding the rejection of the plaint, and the Court has failed to address that observing that, it is a mixed question of fact and law, or it has to be decided during the course of the trial, and the I.A. is dismissed. From the plaint averments and the documents filed along with the plaint, the defendants make out that it is a case for rejection of the plaint, the trial court has to consider the same in accordance with law. In this case, the trial court has



failed to consider the application filed by the petitioner in the proper perspective.

8. In that view of the matter, this Court is passing the following:

**ORDER**

- i. Accordingly, the order dated 15.02.2025 on I.A.No.2 in O.S.No.5305/2024 by XI Additional City Civil and Sessions Judge, Bengaluru City is set aside and the matter is remanded back to the trial Court to consider the same in accordance with law as expeditiously as possible.
- ii. All I.As. in this petition shall stand closed.

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