



CNR: KAHC010793212025

NC: 2026:KHC:52322
CRP No. 917 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CIVIL REVISION PETITION NO. 917 OF 2025 (IO)

BETWEEN:

1. PRESIDENT
HULIKUNTE HALU UTHPADAKARA
SAHAKARA SANG NIYAMITA
HULIKUNTE VILLAGE
DODABELAVANGALA HOBLI
PINCODE 561 204
PRESENTED BY SRI GOVINDARAJU
S/O KRISHNAPPA
AGED ABOUT 52 YEARS

2. SECRETARY
HULIKUNTE HALU UTHPADAKARA
SAHAKARA SANG NIYAMITHA
HULIKUNTE VILLAGE
DODDDABELAVANGALA HOBLI
DODDABALLAPURA
PIN CODE 561204
PRESENTED BY
SRI H.S.PANCHAKSHARAIHAH
S/O LATE SADASHIVAIAH
AGED ABOUT 62 YEARS

...PETITIONERS

(BY SRI. ANAND H., ADVOCATE)

AND:

SRI RADHAKRISHNA
S/O RAJANNA
AGED ABOUT 64 YEARS
R/AT HULIKUNTE VILLAGE



CNR: KAHC010793212025

NC: 2026:KHC:52322
CRP No. 917 of 2025

DODDABELAVANGALA HOBLI
DODDABALLPAURA
PIN CODE -561 204

...RESPONDENTS

(BY SRI. MOHAMMED THOUHID, ADVOCATE FOR
SRI.MANJUNATH G. KANDEKAR, ADVOCATE)

THIS CRP FILED U/S. 115 OF CPC AGAINST THE ORDER
DATED 10.10.2025 PASSED ON IA IN OS NO. 484/2023 ON
THE FILE OF THE ADDITIONAL SENIOR CIVIL JUDGE AND
JMFC, DODDABALLAPURA, REJECTING THE IA FILED U/O VII
RULE 11(a) (b) AND (d) 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

Aggrieved by the order dated 10.10.2025 passed on an
application filed under Order VII Rule 11 (a) (b) and (d) of the
CPC in O.S.No.484/2023 by the Additional Senior Civil Judge
and JMFC, Doddaballapura, the petitioners/defendants are
before this Court.

2. The respondent herein, who is the plaintiff, filed
O.S.No.484/2023 seeking declaration and permanent
injunction. The petitioners are the president and secretary of a



CNR: KAHC010793212025

co-operative society. In the suit, the petitioners filed an application under Order VII Rule 11 (a), (b), and (d) of the CPC stating that as the plaintiff failed to satisfy the mandate under Section 125 of the Co-operative Societies Act, the suit is not maintainable. The trial Court, by the impugned order, rejected the application.

3. While rejecting the application, the trial Court held that the plaintiff is an individual who is unconnected with the affairs of the suit and his allegation is that the defendants are encroaching into his property and have created the documents. Hence, no notice under Section 125 of the Co-operative Societies Act is necessary, as the present suit does not touch the constitutional management of the society's business.

4. Learned counsel appearing for the petitioners/ defendants submits that in the plaint, it is stated that they are going to alienate the property and the Society cannot alienate the property, and the present suit is filed with an invented cause of action. He relied on the judgment in the case of



CNR: KAHC010793212025

NC: 2026:KHC:52322
CRP No. 917 of 2025

Arogyanagar Co-operative Housing Vs. Fakiragouda and

Another¹, paragraph No.10 reads as follows:

"10. It is not in dispute that no notice as required by Section 125 of the Act was issued. Now the question is "whether the provisions contained in Section 125 of the Act are attracted to the relief prayed for by the Respondent/Plaintiffs in their suit filed against the defendant/ Society?" As I have already indicated, in the instant case, the Respondent/plaintiffs have sought for the relief of a permanent injunction restraining the defendant/society from alienating any residential sites to its members without of course fulfilling the obligations towards the plaintiffs. Looking to the nature of relief, it is very clear that the Respondent/plaintiffs wants to restrain the defendant/society from disbursing the sites to its members. No doubt, the relief has been couched in a very clever manner so as to appear as if the plaintiffs are enforcing the terms of the agreement, but infact, they are only trying to prevent the defendant/society from disbursing the sites formed by it to its members. This being the nature of relief sought for by the plaintiffs in their suit against the defendant/Society, in my view Section 125 of the Act is clearly attracted. Section 125 of the Act prescribes that when in any suit, the relief is in respect of any act committed by the Society or its officers touching the Constitution, management or the business of the Society, no such suit shall be instituted without issuing the notice as required by Section 125 of the Act. In the instant case, the act of the Society to disburse the site formed by it to its members is sought to be restrained by means of a permanent injunction sought for by the plaintiffs against the defendant/society. Thus the Act which is sought to be restrained is one which relates to the business of the defendant/Society. Since the relief sought for by the plaintiffs against the defendant/Society relates to the business of the Society, it follows that the provisions of Section 125 of the Act are attracted to the nature of the reliefs sought for in the suit against the defendant/Society. In this view of the matter, I find that the Trial Court was right

¹ ILR 2004 KAR 1445



CNR: KAHC010793212025

NC: 2026:KHC:52322
CRP No. 917 of 2025

in passing the order of return of plaint for want of notice under Section 125 of the Act and the Lower Appellate Court was not justified in reversing such Order. What I find from the Order of the Lower Appellate Court is that it has not properly appreciated the nature of relief sought for by the Respondent/Plaintiffs in their suit against the defendant/Society. No doubt it was sought to be contended by the learned Counsel appearing for the Respondents that when the plaintiffs are not the members of the Society, they have no obligation for issue of notice under Section 125 of the Act. I find no merit in this contention. Notwithstanding the fact whether the plaintiffs are members or not the members of the society, if they are seeking a relief against the society which touches the business of the Society, then the notice under Section 125 of the Act is a must. Hence, I find no merit in any of the contentions urged by the learned Counsel for the Respondents."

5. Learned counsel has relied on another judgment in the case of ***The Krishi Mattu Ksheera Utpadaka Vs. Sohanlal***², on the following paragraphs:

"125. Notice necessary in suits:--

No suit shall be instituted against a cooperative society or any of its officers in respect of any act touching the constitution, management or the business of the society until the expiration of two months next after notice in writing has been delivered to the Registrar or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left."

Whatever be the act, be it legal or illegal, if it relates to the Constitution, management or business of the society, a notice under Sec. 125 becomes a fore-runner in the absence of which the suit would be doomed is what one of us, Swami J. (as he then was) held in

² AIR 1993 KARNATAKA 20



CNR: KAHC010793212025

Mahadevaiah v. Sales Officer, ILR 1990 Kant 151. The rationale of the decision is succinctly set out in the head note to the decision :

"Section 125 of the Act specifically provides that when in any suit, the relief is in respect of any act committed by the Society or its Officers touching the Constitution, management or the business of the society, no such suit shall be instituted without issuing the notice as required by Section 125 of the Act.

In the instant case, the act of the Society and its Officers relates to the amount due under the Award. Thus the act complained of relates to the business of the Society since it relates to the recovery of the amount due under the Award. Consequently it follows that the provisions of Section 125 are attracted to the reliefs sought for in the suit."

Proceeding further His Lordship referred to the decision of the Supreme Court in Amarnath Dogra v. Union of India, considering in the context the scope of Sec. 125, Swamy, J. held that whenever a statute prescribes the issuance of a notice before the institution of a suit, a suit brought without issuing such a notice is bad in law and the Court will not have jurisdiction to entertain such a suit. It was, however, held that the non-issuance of a notice under Sec. 125 if it was a must would only result in the judgment and decree being set aside and thereafter the plaint returned instead of dismissing the suit. But this aspect of the matter came to be dissented upon by a later Bench in Syed Abdul Jabbar v. Board of Wakfs, ILR 1991 (2) Kant 1628. In that case their Lordships pointed out that if there is want of a proper statutory notice the only course open to the Court is to reject the plaint and that the plaint could not be ordered to be returned for presentation to the proper Court. Based on the foregoing view of the Division Bench the decision in Mahadeviah's case referred to supra stood partially eclipsed but otherwise remains intact vis a vis the question of issuance of notice under Sec. 125 of the Act where the act complained of is against a society or an officer of the society or may be both, provided, the act complained of related to the Constitution, the management or business of the society. We would point out at this stage that even in the case of an act simpliciter, per se a notice under Sec. 125 of the Act would be necessary. This conclusion we also reach on the basis of the decision in Amalgamated



CNR: KAHC010793212025

NC: 2026:KHC:52322
CRP No. 917 of 2025

Electricity Company (Belgaum) Limited v. Municipal Committee, Ajmer, ."

6. Relying on the above judgment, it is submitted that the present suit is not maintainable. In the light of Section 125 of the Co-operative Societies Act, the suit is liable to be rejected as the plaintiff has failed to follow the procedure contemplated under Section 125 of the Co-operative Societies Act.

7. Learned counsel appearing for the respondent/plaintiff submits that the petitioner has nothing to do with the Society. It is submitted that the plaintiff is the owner of the property, and the defendants encroached upon the land of the plaintiff. The plaintiff has sought declaration. It is submitted that the suit does not fall under Section 125 of the Co-operative Societies Act, and the trial Court rightly rejected the application filed under Order VII Rule 11 of the CPC.

8. Having heard the learned counsel on either side, perused the entire material on record. In the light of the arguments advanced on behalf of both parties, it is appropriate to look at Section 125 of the Co-operative Societies Act:

"125. Notice necessary in suits.



CNR: KAHC010793212025

- No suit shall be instituted against a co-operative society or any of its officers in respect of any act touching the constitution, management or the business of the society until the expiration of two months next after notice in writing has been delivered to the Registrar, or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left."

9. A bare reading of Section 125 of the Co-operative Societies Act makes it clear that, to protect the interests of a society, this provision has been incorporated where the dispute concerns the constitution, management and business of the Society. The plaintiff has purchased the property by way of a valuable registered sale deed. According to him, the defendants are interfering with his possession and have denied the title. Hence, he had filed the suit for declaration. In these circumstances, it cannot be held that the suit falls within Section 125 of the Co-operative Societies Act, and requires notice as per Section 125 of the Act. In the facts and circumstances of the case, the trial Court rightly considered and passed the order, and this Court finds no reason to interfere. Hence, this Court is passing the following order:



CNR: KAHC010793212025

NC: 2026:KHC:52322
CRP No. 917 of 2025

ORDER

- i. Accordingly, the Civil Revision Petition is ***dismissed.***
- ii. All I.As. in this petition shall stand closed.

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

MEG
List No.: 1 Sl No.: 40