HC-KAR
NC: 2026:KHC:60059
CRP No. 826 of 2026
CNR: KAHC010643662026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CIVIL REVISION PETITION NO. 826 OF 2026 (IO)

BETWEEN:

1. MR B.D.RAVI
   SON OF B.E.DYAVANNA GOWDA
   AGED ABOUT 65 YEARS
   RESIDING AT BELAGODU B
   HOSAHALLI VILLAGE AND POST,
   MUDIGERE TALUK
   CHIKKAMAGALURU – 577 132

2. I.N.KRISHNAMMA
   WIFE OF B.E.DYAVANNA GOWDA
   AGED ABOUT 85 YEARS
   RESIDING AT BELAGODU
   B HOSAHALLI VILLAGE AND POST,
   MUDIGERE TALUK
   CHIKKAMAGALURU – 577 132

...PETITIONERS

(BY SRI. ROHAN HOSMATH, ADVOCATE)

Digitally signed by SUVARNA T
Location: HIGH COURT OF KARNATAKA

AND:

B.M.ADARSH
AGED ABOUT 48 YEARS,
S/O B.K.MANJUNATH
PERMANENT RESIDENT OF BELAGODU
B HOSAHALLI VILLAGE AND POST
MUDIGERE TALUK,
CHIKKAMAGALURU – 577 132

...RESPONDENT

(BY SRI.B.H.SHAMANNA, ADVOCATE)

CNR: KAHC010643662026

THIS CRP FILED UNDER SEC.115 OF CPC., AGAINST THE ORDER DATED 09.09.2026 PASSED ON IA NO.VI IN OS NO.157/2016 ON THE FILE OF PRL. CIVIL JUDGE AND JMFC, MUDIGERE, DISMISSING THE IA NO.6 FILED UNDER ORDER VII RULE 11(a) OF CPC., FOR REJECTION OF PLAINT.IN TIMECF SUFFICIENT IA.1/2026 FOR STAY IA.1/2026 FILED UNDER SEC.151 OF CPC., PRAYING TO STAY THE OPERATION AND ALL FURTHER PROCEEDINGS IN OS NO.157/2016 PENDING ON THE FILE OF PRL. CIVIL JUDGE AND JMFC, MUDIGERE, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS PETITION HAVING BEEN HEARD AND RESERVED ON 16.09.2026, COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CAV ORDER

The present CRP is filed aggrieved by the orders passed in IA.No.6 in OS.No.157/2016 dated 09.09.2026 by the Principal Civil Judge and JMFC at Mudigere, the defendants are before this court.

2. The respondent herein had initially filed a suit for declaration that the plaintiff is the owner of the scheduled property having right, title and interest, possession and occupation and also sought for permanent injunction restraining the defendants from interfering with the peaceful possession of schedule property and not to trespass and cause acts of waste and damages to the scheduled property. During the pendency

of the suit, an application is filed under Order VI Rule 17 of CPC seeking amendment of the prayer and sought the amendment of recovery of possession and by order dated 19.12.2019, the application was rejected. At the stage of cross-examination, in the said suit, the defendant has filed an application seeking rejection of the plaint. The suit was initially filed for declaration of title and permanent injunction and subsequently the plaintiff sought amendment of the prayer to include recovery of possession. However, no corresponding amendment was made to the factual averments concerning the alleged dispossession. Unless and until those averments are there, the plaintiff cannot maintain such a prayer and sought for the rejection of the plaint. The trial court, by order impugned had rejected the said application.

3. While rejecting the application, the trial court has observed that as per Order VII Rule 11(a) of CPC, the Court can dismiss the suit on the basis of the grounds available therein. It is well settled law that for the purpose of deciding the application filed under Order VII Rule 11(a) of CPC, only averments stated in the plaint alone can be looked into, merits

and demerits of the matter and the allegations by the parties cannot be gone into. The plaintiff in the plaint averred that on 13.01.2015 the defendants tried to interfere with the suit schedule property. Hence it cannot be said that the suit does not disclose cause of action. The truthfulness of the averments of the plaint and other aspects would be decided by the court at the time of final judgment. The defendant No.1, in his objection, admitted that there is a cause of action, but the above alleged cause of action are imaginary and false. But as per the above said provision of CPC, there is no scope to entertain the present application filed by the defendant No.1 and the decisions relied on by the counsel for the defendant No.1 are not applicable to the facts of the case and accordingly dismissed the application.

4. The learned counsel appearing for the petitioner submits that a prayer for recovery of possession cannot be sustained merely by incorporating the relief in the prayer column. The plaintiff is required to plead when possession was lost. The manner in which the defendant entered upon the property and the circumstances rendering their possession is

unlawful. According to the petitioner, the plaint does not disclose the essential particulars. He relied on the judgment of the Apex Court in the case of ***Kanta and others Vs. Soma Devi (dead) through LRs and others***[1]. He relied on para 11 and 12 which reads thus:

> ***"11. The suit is one for perpetual injunction, alternatively for recovery of possession. The plaintiff for the relief of perpetual injunction, along with prima facie case, balance of convenience and irreparable loss, must also prove the actual possession of the suit schedule on the date of filing of the suit. It is axiomatic that possession on the date of filing the suit is an essential requisite for granting perpetual injunction. The findings recorded are that the plaintiff was not in possession of the suit schedule property. In a suit for recovery of possession, one of the essential conditions is (i) entitlement, (ii) manner of entitlement, (iii) specifics on the date and mode of dispossession, and conversely (iv) what is the nature of possession claimed by the defendant, and how it is illegal. Admittedly in the case on hand, these pleadings are completely absent. A few bits and pieces of evidence without pleading cannot be appreciated. Therefore, the first relief is rightly rejected by reckoning the plea and proof placed by the plaintiff. To the same effect, Maria Margarida 5 Sequeira Fernandes v. Erasmo Jack de Sequeira, 1 has laid down the requisite features in pleadings and reads thus:***
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> ***"69. The person averring a right to continue in possession shall, as far as possible, give a detailed***

[1] 2026 INSC 133

particularised specific pleading along with documents to support his claim and details of subsequent conduct which establish his possession.

70. It would be imperative that one who claims possession must give all such details as enumerated hereunder. They are only illustrative and not exhaustive:

(a) who is or are the owner or owners of the property;

(b) title of the property;

(c) who is in possession of the title documents;

(d) identity of the claimant or claimants to possession;

(e) the date of entry into possession;

(f) how he came into possession—whether he purchased the property or inherited or got the same in gift or by any other method;

(g) in case he purchased the property, what is the consideration; if he has taken it on rent, how much is the rent, licence fee or lease amount;

(h) If taken on rent, licence fee or lease—then insist on rent deed, licence deed or lease deed;

(i) who are the persons in possession/occupation or otherwise living with him, in what capacity; as family members, friends or servants, etc.;

(j) subsequent conduct i.e. any event which might have extinguished his entitlement to possession or caused shift therein; and

(k) basis of his claim that not to deliver possession but continue in possession.

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75. In pleadings, whenever a person claims right to continue in possession of another property, it becomes necessary for him to plead with specificity about who was the owner, on what date did he enter into possession, in what capacity and in what manner did he conduct his relationship with the owner over the years till the date of suit. He must also give details on what basis he is claiming a right to continue in possession. Until the pleadings raise a sufficient case, they will not constitute sufficient claim of defence.

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77. The court must ensure that pleadings of a case must contain sufficient particulars. Insistence on details reduces the ability to put forward a non-existent or false claim or defence. In dealing with a civil case, pleadings, title documents and relevant records play a vital role and that would ordinarily decide the fate of the case." (emphasis supplied)

12. Adverting to the alternative relief of recovery of possession, after perusing the plaint, we record that the plaint is bereft of the required details on the alleged date of dispossession and the basis on which recovery of possession is prayed for. In the absence of material pleadings and evidence, the suit of plaintiff is rightly dismissed."

Then he also relied on ***Ramisetty Venkatanna & another Vs. Nasyam Jamal Saheb & others***[2]. He relied on para 3.4, 5.1 and 6 which reads thus:

"3.4 Relying upon the decision of this Court in the case of T. Arivandandam Vs. T.V. Satyapal (1977) 4

[2] 2023 INSC 458

SCC 467, it is prayed that as the plaint is vexatious and meritless and creates illusion of a cause of action by clever drafting the same should be rejected at the earliest.

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5.1 In the case of T. Arivandandam (supra) in paragraph 5 while considering the provision of Order VII Rule XI, this Court has observed as under: - "5. We have not the slightest hesitation in condemning the petitioner for the gross abuse of the process of the court repeatedly and unrepentantly resorted to. From the statement of the facts found in the judgment of the High Court, it is perfectly plain that the suit now pending before the First Munsif's Court, Bangalore, is a flagrant misuse of the mercies of the law in receiving plaints. The learned Munsif must remember that if on a meaningful — not formal — reading of the plaint it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under Order 7 Rule 11 CPC taking care to see that the ground mentioned therein is fulfilled. And, if clever drafting has created the illusion of a cause of action, nip it in the bud at the first hearing by examining the party searchingly under Order 10 CPC. An activist Judge is the answer to irresponsible law suits."

6. Applying the law laid down by this Court in the aforesaid decisions on the applicability of Order VII Rule XI to the facts of the case on hand, we are of the opinion that the plaint ought to have been rejected in exercise of powers under Order VII Rule XI(a) and (d) of CPC being vexatious, illusory cause of action and barred by limitation. By clever drafting and not asking any relief with respect to partition deed dated 11.03.1953, the plaintiffs have tried to circumvent the provision of limitation act

and have tried to maintain the suit which is nothing but abuse of process of court and the law."

Relying of above judgments, learned counsel submits that the trial court has failed to consider all these aspects and rejected the application. It is submitted that the order impugned has to be set aside and the plaint has to be rejected.

5. Learned counsel appearing for the respondent submits that the plaint discloses the cause of action and all the contentions raised by the defendant are on the merits of the matter which cannot be decided in an application filed under Order VII Rule 11 of CPC. The learned counsel for the respondent had relied on the judgment of the Apex Court in the case of ***P.Kumarakurubaran Vs. P. Narayanan[3].*** Relying on this, it is submitted that the trial court has rightly considered the matter and passed orders and no interference is called for.

6. Having heard the learned counsel on either side, perused the entire material on record. The controversy requires examination of the distinction between absence of a cause of action or insufficiency of material particulars. Order VII Rule 11(a) of CPC authorizes rejection of a plaint which does not

[3] 2025 INSC 598

disclose a cause of action. The provision does not authorize rejection merely because the court considered the plaintiff's case is weak or because the plaintiff may ultimately be unable to establish the relief sought. At this stage, the trial court must examine the plaint as a whole and ascertain whether facts pleaded, if established, could entitle the plaintiff to any of the relief claimed. The grievance of the petitioners concerning the absence of particulars of dispossession is not without substance. A plaintiff seeking recovery of possession cannot rest the entire claim upon assertion of ownership. Order VI Rule 2 of CPC requires pleadings of material facts constituting the cause of action; particularly where the plaintiff initially assessed possession and subsequently seeks recovery, the circumstances in which possession was lost assume significance. In the case of ***Kantha Vs. Soma Devi*** referred supra, the Hon'ble Supreme Court has considered a suit originally filed for permanent injunction in which the prayer for recovery of possession was subsequently introduced. The Hon’ble Supreme Court emphasized the necessity of pleadings concerning entitlement, the manner of acquisition of title, the date and

mode of dispossession and the nature of the defendant's possession. The plaintiff to plead and establish the relevant facts was held fatal to the claim for recovery of possession. The principle enunciated in the said judgment is that recovery of possession cannot be decreed in the absence of the foundational pleadings and evidence. However, that question arose after the parties had proceeded to trial and evidence had been appreciated. It is not laid down that every omission to mention the precise date or manner of dispossession necessarily attracts Order VII Rule 11(a) of CPC. In the present case, the plaintiff has pleaded the source of title, the death of the father on 13.12.2014. The objections was raised by the defendants on 13.01.2015 and the subsequent discovery that the defendants were in unauthorized possession. Although the precise date and manner of dispossession have not been stated, the plaint does contain an allegation that the defendants are occupying property to which the plaintiff claims title. These averments cannot be ignored merely because the subsequent amendment was confined to the prayer column. In the case of ***Jagdeshwari Devi & Ors Vs. Shatrughan Ram***[4],

[4] (2007) 715 SCC 52

the Hon'ble Supreme Court dealt with a comparable situation involving an amendment introducing the recovery of possession on an application seeking rejection of the plaint. The Supreme Court held that a defective or incomplete statement of the cause of action is distinguishable from a total absence of cause of action, where the plaint discloses a right to sue, the fact that certain particulars are vague or incomplete does not by itself justify its rejection. This rejection is particularly relevant to the present controversy. The rejection in ***Ramisetty Venkatanna case*** referred supra does not lead to a different conclusion. In that case, the Supreme Court found that the plaintiffs had deliberately omitted to challenge a registered partition deed executed several decades earlier. Although the suit was found of an alleged error in that very document, the plaint was held to disclose an illusory cause of action designed to circumvent limitation. In the present case, the pleaded cause of action concerns events following the father's death in December 2014, whereas the suit filed in the month of September 2016. No comparable attempt to circumvent an apparent statutory bar emerges from the stated averments. The respondent's reliance

upon ***P.Kumarakurubaran*** case referred supra must also be understood in its proper context. The Hon'ble Supreme Court was considering the rejection of a plaint on limitation where the plaint had pleaded the circumstances of acquiring knowledge of the disputed transactions; it is held that the truth of those averments and the question of prior knowledge by the plaintiff require evidence. The rejection does not dispense with the requirement of pleading material facts. It nevertheless reinforces the principle that disputed factual questions cannot be conclusively determined under Order VII Rule 11 of CPC.

7. The petitioners also contend that the absence of the date of dispossession makes it impossible to determine limitation. However, where recovery of immovable property is sought on the strength of title, Article 65 of the Limitation Act ordinarily governs the relief. It prescribes 12 years commencing when the defendant's possession becomes adverse to the plaintiff. This is distinguishable from Article 64 of the Limitation Act , which governs recovery based on previous possession and subsequent dispossession. The Supreme Court reiterated this distinction in the case of ***Neelam Gupta Vs. Rajendra Kumar***

Gupta[5]. On the averments presently available, it cannot be concluded that a claim for recovery based on title is *ex facie* barred by limitation. Another aspect is that Section 34 of the Specific Relief Act requires a plaintiff seeking a declaration of title to claim further relief where such relief is available. The plaintiff has not incorporated recovery of possession in the prayer. Whether the relief is ultimately sustainable on the existing factual pleading is a question distinct from whether the entire plaint deserves rejection. Order VII Rule 11(a) of CPC does not contemplate rejection of a plaint merely because one or several reliefs may encounter difficulty during trial. The prohibition against partial rejection was explained by the Supreme Court in the case of ***Sejal Glass Limited Vs. Navilan Manchester Private Limited***.[6] The Court cannot overlook the deficiencies pointed out by the petitioner. The mere mutation of revenue records does not establish title, and the plaintiff must independently prove entitlement to the property. Similarly, the defendants' assertions of unauthorized possession are not pleaded and are not legally sustainable. The

[5] 2024 INSC 769
[6] (2018) 11 SCC 780

Court cannot grant recovery of possession upon facts that have never been pleaded, nor can evidence be permitted to substitute for absent material pleadings. These considerations will assume significance when the Court adjudicates substantive relief. Nevertheless, the limited inquiry under Order VII Rule 11 of the CPC cannot be converted into a determination of whether the plaintiff will succeed at trial. Reading the plaint as a whole, the plaintiff claims title through the father, alleges interference with adjoining owness and asserts that the defendants are in unauthorized possession. The pleading, though lacking in particulars, cannot be said to disclose no cause of action and that cannot be a ground to reject the plaint. Hence, this Court finds no reason to interfere, and the trial court has rightly rejected the application.

8. Accordingly, this Court is passing the following:

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ORDER

i. The Civil Revision Petition is ***dismissed***.

ii. Pending IAs., in this petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

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List No.: 1 Sl No.: 2
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