HC-KAR

NC: 2026:KHC:60642
CRP No. 902 of 2025

CNR: KAHC010784552025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CIVIL REVISION PETITION NO. 902 OF 2025 (IO)

BETWEEN:

SRI. THIMMESH PRABHU
S/O LATE SRI. LAKKAPPA,
AGED ABOUT 58 YEARS,
RESIDING AT NO. 43/1,
12TH CROSS ROAD,
AGRAHARA DASARAHALLI
BENGALURU -560 079

…PETITIONER

(BY SRI. SRINIDHI S., ADVOCATE)

AND:

1. SRI B.V.SRINIVAS
S/O VENKATESHAPPA,
AGED ABOUT 29 YEARS,
RESIDING AT BEGURU VILLAGE,
BK HALLI POST, JALA HOBLI,
YELAHANKA TALUK,
BENGALURU – 562 122

2. SRI. B.V.MUNINDRA,
S/O VENKATESHAPPA,
AGED ABOUT 25 YEARS,
RESIDING AT BEGURU VILLAGE,
B.K.HALLI POST, JALA HOBLI,
YELAHANKA TALUK,
BENGALURU- 562 122

3. SMT. ASHWATHAMMA,

Digitally signed by SUVARNA T
Location: HIGH COURT OF KARNATAKA

W/O LATE SRI. VENKATARAMANAPPA,
AGED ABOUT 90 YEARS,
RESIDING AT BEGURU VILLAGE,
B.K. HALLI POST, JALA HOBLI,
YELAHANKA TALUK,
BENGALURU – 562 122

4. SRI. VENKATESHAPPA,
S/O LATE SRI. VENKATARAMANAPPA,
AGED ABOUT 65 YEARS,
RESIDING AT BEGURU VILLAGE,
B.K. HALLI POST, JALA HOBLI,
YELAHANKA TALUK,
BENGALURU – 562 122

5. SMT. KUMARI,
W/O LATE MUNIYAPPA,
AGED ABOUT 59 YEARS,
RESIDING AT BEGURU VILLAGE,
BK HALLI POST, JALA HOBLI,
YELAHANKA TALUK,
BENGALURU – 562 122

6. SMT. PALLAVI,
S/O LATE MUNIYAPPA,
AGED ABOUT 45 YEARS,
RESIDING AT BEGURU VILLAGE,
B.K. HALLI POST, JALA HOBLI,
YELAHANKA TALUK,
BENGALURU – 562 122

7. SRI. ROSHAN,
S/O LATE MUNIYAPPA,
AGED ABOUT 39 YEARS,
RESIDING AT BEGURU VILLAGE,
B.K. HALLI POST, JALA HOBLI,
YELAHANKA TALUK,
BENGALURU – 562 122

8. SMT. PREETHI T.,

D/O SRI. THIMMESH PRABHU,
AGED ABOUT 32 YEARS,
RESIDING AT BEGURU VILLAGE,
B.K. HALLI POST, JALA HOBLI,
YELAHANKA TALUK,
BENGALURU – 560 079

9. SRI. PREM T,
S/O SRI. THIMMESH PRABHU,
AGED ABOUT 27 YEARS,
RESIDING AT BEGURU VILLAGE,
B.K.HALLI POST, JALA HOBLI,
YELAHANKA TALUK,
BENGALURU - 560 079

…RESPONDENTS

(R1 AND R2 ARE SERVED
NOTICE TO R3 TO R9 ARE DISPENSED WITH V/O/D: 06/01/2026)

THIS CRP FILED UNDER SEC.115 OF CPC., AGAINST THE ORDER DATED 30.10.2025 PASSED ON IA NO.4 IN OS NO.1197/2024 ON THE FILE OF I ADDITIONAL SENIOR CIVIL JUDGE AND JMFC, DEVANAHALLI, DISMISSING THE IA NO.4 FILED UNDER ORDER VII RULE 11(a) AND (d) R/W SEC.151 OF CPC., FOR REJECTION OF PLAINT.

THIS PETITION HAVING BEEN HEARD AND RESERVED ON 08.09.2026, COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CNR: KAHC010784552025

CAV ORDER

The present Civil Revision Petition is filed aggrieved by the order dated 30.10.2025 passed on I.A.No.IV in O.S.No.1197/2024 by the I Additional Senior Civil Judge & JMFC, Devanahalli.

2. The respondents herein have filed a suit seeking partition and declaration against petitioner/defendant No. 6 herein. In that suit, an application is filed seeking rejection of the plaint. It is the case of the defendant that the sale deed for the year 1997 is challenged. It was executed by defendant Nos. 1 and 2 in favour of defendant No. 6. It is also mentioned in the plaint that the cause of action arose on 20.05.2024 and that defendant No. 1 allegedly refused the request for partition on subsequent occasions. The cause of action appears to be wholly concocted. A plain reading of the plaint reveals that the plaintiffs have failed to demonstrate any legal and enforceable right. It is stated that no partition has taken place. The plaintiffs have made a direct claim for specific shares in the suit property without seeking partition of the entire estate, and that is not permissible. The plaint does not disclose a cause of

action. There is no actionable cause of action. The defendant is a bona fide purchaser for valuable consideration and lawfully acquired the property in the year 1997. Hence, the cause of action is fabricated. The transaction has already been concluded. The plaint has no merit. As per Article 59 of the Limitation Act, the suit is barred by law. In the absence of clear and definite averment on the date of knowledge, the suit is prima facie barred by limitation. The plaint is cleverly drafted to bring the suit within the period of limitation. The plaintiffs have not sought the relief of cancellation of the sale deed as per Section 31 of the Specific Relief Act. As per the proviso to Section 34 of the Act, the suit is not maintainable. The sale deed is binding on the plaintiffs. Consequential relief of cancellation is not sought. Defendant No. 6 acquired the right over the suit property. Defendant No. 2, who is the father of the plaintiff, was one of the signatories to the sale deed. Plaintiff No. 1 was a minor. Plaintiff No. 2 was not born at the time of sale. Hence, the plaintiffs are not legally entitled to question the transaction. The suit property is the self-acquired

property of defendant No. 1. There is no triable issue. Hence, they sought for rejection of the plaint.

3. The trial court by order impugned had rejected the application. The trial Court while rejecting the application has held that the limitation is a question of fact and law and if the plaint is meritless, vexatious and does not disclose cause of action, the plaint can be rejected. The Court observed that the whole plaint averments give rise to cause of action. It is the burden of the plaintiffs to prove the alleged plaint averments. Hence, it requires trial. There are no grounds in the application. In the objection also, it is clearly stated by the plaintiffs that the Sale Deed is not binding on the plaintiffs. Allegations made in the application of defendant No.6 are not true. Hence, on perusal of the entire material on record, the Court is of the opinion that the plaint discloses cause of action and accordingly rejected the application filed by the defendant.

4. The learned counsel appearing for the petitioner/defendant submits that the order dated 30.10.2025 is bad in law. The trial Court gravely erred in concluding that the mere averments in the plaint, stating that the cause of

action allegedly arose in April 2024, are sufficient to sustain the suit. The plaintiffs conspicuously failed to plead with specificity as to when they first acquired knowledge of the execution of the alleged Sale Deed dated 24.01.1997. In the absence of such material pleadings, the plaint is deficient and fails to disclose a clear cause of action. It is submitted that the trial Court erred in holding that merely mentioning the name of the plaintiff's grandfather in the RTC entries is sufficient to establish his right in the suit schedule property. Such reference in revenue records does not, by itself, prove that the property was purchased by the said grandfather in the name of defendant No.1, as incorrectly contended by the plaintiffs in para No.5 of the plaint. Further, the trial Court has failed to appreciate the fact in conjunction with the document produced by the plaintiff along with the plaint. The sale deed dated 07.10.1974 produced along with the plaint, unequivocally records the name of defendant No.1 alone and not the plaintiff's grandfather. It is submitted that the plaintiff have instituted the present suit seeking declaration that the sale deed dated 24.01.1997 is not binding on their alleged share in

the alienated suit schedule property. However, the plaintiffs have conspicuously not sought the cancellation of the sale deed. The Court has failed to appreciate that defendant No.6 is a bona fide purchaser. It is submitted that the trial court has erred in failing to appreciate that once the property stood in the name of the grandmother and the registered sale deed of 1974, she became the absolute owner under Section 14(1) of the Hindu Succession Act,1956. The trial Court wrongly ignored her absolute ownership and alienation rights. Further, the trial court has failed to appreciate that under Section 14(1) of the Hindu Succession Act, any property possessed by a female Hindu, whether acquired before or after the commencement of the Act, became her absolute property. Consequently, the plaintiff's grandmother's ownership was absolute and her alienation by sale deed in 1997, is valid and binding. Any challenge to her ownership or alienation is barred by law and unsustainable. The trial court has failed to appreciate that defendant No.1, together with her son defendant No.2 and late Sri Muniyappa, executed a registered sale deed in 1997, thereby lawfully and validly alienated the suit schedule

property. Upon such alienation, the property ceased to form part of her estate, and no succession right could arise thereafter. The trial Court without applying the provisions of Section 15 and 16 of the Hindu Succession Act,1956 and without appreciating that succession arises only in respect of property that remains in the estate of female Hindu at the time of her death. Since the suit schedule property stood alienated under registered instrument in 1997, no property remained to devolve upon the plaintiffs. This vital aspect was overlooked by the Court. Learned counsel submits that the order impugned is bereft of reasons.

5. Learned counsel appearing for the petitioner relied on the judgment of the Apex Court in the case of ***Correspondence, RBANMS Educational Institution Vs. B. Gunashekar and Another[1].*** He relied on paragraph Nos.14.1 and 17, which read as under:

> ***"14.1 *** ******
>
> ***14.1. Thus, it is clear that the above provision viz., Order VII Rule 11 CPC serves as a crucial filter in civil litigation, enabling courts to terminate proceedings at the threshold where the plaintiff's case, even if accepted in its***

[1] 2025 SCC Online SC 793

entirety, fails to disclose any cause of action or is barred by law, either express or by implication. The scope of Order VII Rule 11 CPC and the authority of the courts is well settled in law. There is a bounden duty on the Court to discern and identify fictitious suit, which on the face of it would be barred, but for the clever pleadings disclosing a cause of action, that is surreal. Generally, sub-clauses (a) and (d) are stand alone grounds, that can be raised by the defendant in a suit. However, it cannot be ruled out that under certain circumstances, clauses (a) and (d) can be mutually inclusive. For instances, when clever drafting veils the implied bar to disclose the cause of action; it then becomes the duty of the Court to lift the veil and expose the bar to reject the suit at the threshold. The power to reject a plaint under this provision is not merely procedural but substantive, aimed at preventing abuse of the judicial process and ensuring that court time is not wasted on fictitious claims failing to disclose any cause of action to sustain the suit or barred by law. Therefore, the appeal before us requires careful consideration of the scope of rejection of the plaint under Order VII Rule 11 CPC, particularly, in the context of the suit filed based on an agreement to sell against third parties in possession.

17. At the same time, we are conscious of principle that only averments in the plaint are to be considered under Order VII Rule 11 CPC. While it is true that the defendant's defense is not to be considered at this stage, this does not mean that the court must accept patently untenable claims or shut its eyes to settled principles of law and put the parties to trial, even in cases which are barred and the cause of action is fictitious. In T. Arivandandam (supra), this Court emphasized that where the plaint is manifestly vexatious and meritless, courts should exercise their power under Order VII Rule 11 CPC and not waste judicial time on matters that are legally barred and frivolous. The present case falls squarely within this principle."

6. He relied on the judgment of the Apex Court in ***Dahiben Vs. Arvindbhai Kalyanji Bhanusali[2].*** He relied on paragraph Nos.23.1 to 24, which reads herein under:

> ***"23.*** *** **
>
> ***23.1. We will first briefly touch upon the law applicable for deciding an application under Order 7 Rule 11 CPC, which reads as under:***
>
> ***"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 written 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;***
>
> ***(e) where it is not filed in duplicate;***
>
> ***(f) where the plaintiff fails to comply with the provisions of Rule 9:***
>
> ***Provided that the time fixed by the court for the correction of the valuation or supplying of the requisite stamp-papers 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***

[2] (2020) 7 SCC 366

nature from correcting the valuation or supplying the requisite stamp-papers, 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."

23.2. The remedy under Order 7 Rule 11 is an independent and special remedy, wherein the court is empowered to summarily dismiss a suit at the threshold, without proceeding to record evidence, and conducting a trial, on the basis of the evidence adduced, if it is satisfied that the action should be terminated on any of the grounds contained in this provision.

23.3. The underlying object of Order 7 Rule 11(a) is that if in a suit, no cause of action is disclosed, or the suit is barred by limitation under Rule 11(d), the court would not permit the plaintiff to unnecessarily protract the proceedings in the suit. In such a case, it would be necessary to put an end to the sham litigation, so that further judicial time is not wasted.

23.4. In Azhar Hussain v. Rajiv Gandhi [Azhar Hussain v. Rajiv Gandhi, 1986 Supp SCC 315. Followed in Manvendrasinhji Ranjitsinhji Jadeja v. Vijaykunverba, 1998 SCC OnLine Guj 281 : (1998) 2 GLH 823] this Court held that the whole purpose of conferment of powers under this provision is to ensure that a litigation which is meaningless, and bound to prove abortive, should not be permitted to waste judicial time of the court, in the following words : (SCC p. 324, para 12)

"12. … The whole purpose of conferment of such powers is to ensure that a litigation which is meaningless, and bound to prove abortive should not be permitted to occupy the time of the court, and exercise the mind of the respondent. The sword of Damocles need not be kept hanging over his head unnecessarily without point or purpose. Even in an ordinary civil litigation, the court readily exercises the

power to reject a plaint, if it does not disclose any cause of action."

23.5. The power conferred on the court to terminate a civil action is, however, a drastic one, and the conditions enumerated in Order 7 Rule 11 are required to be strictly adhered to.

23.6. Under Order 7 Rule 11, a duty is cast on the court to determine whether the plaint discloses a cause of action by scrutinising the averments in the plaint [Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I, (2004) 9 SCC 512] , read in conjunction with the documents relied upon, or whether the suit is barred by any law.

23.7. Order 7 Rule 14(1) provides for production of documents, on which the plaintiff places reliance in his suit, which reads as under:

"14. Production of document on which plaintiff sues or relies.—(1) Where a plaintiff sues upon a document or relies upon document in his possession or power in support of his claim, he shall enter such documents in a list, and shall produce it in court when the plaint is presented by him and shall, at the same time deliver the document and a copy thereof, to be filed with the plaint.

(2) Where any such document is not in the possession or power of the plaintiff, he shall, wherever possible, state in whose possession or power it is.

(3) A document which ought to be produced in court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not, without the leave of the court, be received in evidence on his behalf at the hearing of the suit.

(4) Nothing in this Rule shall apply to document produced for the cross-examination

of the plaintiff's witnesses, or, handed over to a witness merely to refresh his memory."

23.8. Having regard to Order 7 Rule 14 CPC, the documents filed along with the plaint, are required to be taken into consideration for deciding the application under Order 7 Rule 11(a). When a document referred to in the plaint, forms the basis of the plaint, it should be treated as a part of the plaint.

23.9. In exercise of power under this provision, the court would determine if the assertions made in the plaint are contrary to statutory law, or judicial dicta, for deciding whether a case for rejecting the plaint at the threshold is made out.

23.10. At this stage, the pleas taken by the defendant in the written statement and application for rejection of the plaint on the merits, would be irrelevant, and cannot be adverted to, or taken into consideration.

23.11. The test for exercising the power under Order 7 Rule 11 is that if the averments made in the plaint are taken in entirety, in conjunction with the documents relied upon, would the same result in a decree being passed. This test was laid down in Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I [Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I, (2004) 9 SCC 512] which reads as : (SCC p. 562, para 139)

"139. Whether a plaint discloses a cause of action or not is essentially a question of fact. But whether it does or does not must be found out from reading the plaint itself. For the said purpose, the averments made in the plaint in their entirety must be held to be correct. The test is as to whether if the averments made in the plaint are taken to be correct in their entirety, a decree would be passed."

23.12. In Hardesh Ores (P) Ltd. v. Hede & Co. [Hardesh Ores (P) Ltd. v. Hede & Co., (2007) 5 SCC 614] the Court further held that it is not

permissible to cull out a sentence or a passage, and to read it in isolation. It is the substance, and not merely the form, which has to be looked into. The plaint has to be construed as it stands, without addition or subtraction of words. If the allegations in the plaint prima facie show a cause of action, the court cannot embark upon an enquiry whether the allegations are true in fact. D. Ramachandran v. R.V. Janakiraman.

23.13. If on a meaningful reading of the plaint, it is found that the suit is manifestly vexatious and without any merit, and does not disclose a right to sue, the court would be justified in exercising the power under Order 7 Rule 11 CPC.

23.14. The power under Order 7 Rule 11 CPC may be exercised by the court at any stage of the suit, either before registering the plaint, or after issuing summons to the defendant, or before conclusion of the trial, as held by this Court in the judgment of Saleem Bhai v. State of Maharashtra [Saleem Bhai v. State of Maharashtra, (2003) 1 SCC 557] . The plea that once issues are framed, the matter must necessarily go to trial was repelled by this Court in Azhar Hussain case.

23.15. The provision of Order 7 Rule 11 is mandatory in nature. It states that the plaint "shall" be rejected if any of the grounds specified in clauses (a) to (e) are made out. If the court finds that the plaint does not disclose a cause of action, or that the suit is barred by any law, the court has no option, but to reject the plaint.

24. "Cause of action" means every fact which would be necessary for the plaintiff to prove, if traversed, in order to support his right to judgment. It consists of a bundle of material facts, which are necessary for the plaintiff to prove in order to entitle him to the reliefs claimed in the suit.

24.1. In Swamy Atmananda v. Sri Ramakrishna Tapovanam [Swamy Atmananda v. Sri Ramakrishna Tapovanam, (2005) 10 SCC 51] this Court held : (SCC p. 60, para 24)

"24. A cause of action, thus, means every fact, which, if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the court. In other words, it is a bundle of facts, which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. It must include some act done by the defendant since in the absence of such an act, no cause of action can possibly accrue. It is not limited to the actual infringement of the right sued on but includes all the material facts on which it is founded."

24.2. In T. Arivandandam v. T.V. Satyapal [T. Arivandandam v. T.V. Satyapal, (1977) 4 SCC 467] this Court held that while considering an application under Order 7 Rule 11 CPC what is required to be decided is whether the plaint discloses a real cause of action, or something purely illusory, in the following words : (SCC p. 470, para 5)

"5. ... 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...."

24.3. Subsequently, in ITC Ltd. v. Debts Recovery Appellate Tribunal [ITC Ltd. v. Debts Recovery Appellate Tribunal, (1998) 2 SCC 70] this Court held that law cannot permit clever drafting which creates illusions of a cause of action. What is required is that a clear right must be made out in the plaint.

> ***24.4. If, however, by clever drafting of the plaint, it has created the illusion of a cause of action, this Court in Madanuri Sri Rama Chandra Murthy v. Syed Jalal [Madanuri Sri Rama Chandra Murthy v. Syed Jalal, (2017) 13 SCC 174 : (2017) 5 SCC (Civ) 602] held that it should be nipped in the bud, so that bogus litigation will end at the earliest stage. The Court must be vigilant against any camouflage or suppression, and determine whether the litigation is utterly vexatious, and an abuse of the process of the court."***

7. He relied on the judgment of the Co-ordinate Bench of this Court in the case of ***Sri. P.A.Manjunath Vs. Mamtha***[3]. He relied on paragraph Nos. 13, 14 and 15, which reads as under:

> ***"13. The plea sought to be advanced by the plaintiffs is, therefore, not a case of clever drafting alone; it is an endeavour to create an artificial cause of action where none exists. The issuance of a legal notice cannot breathe life into a claim that had long ago perished The judgments of the Apex Court in UMA DEVI and NIKHILA DIVYANG MEHTA further fortify this position. Those decisions reiterate the settled principles governing the exercise of jurisdiction under Order VII Rule 11 of the CPC and emphasize that the Court, while examining a plaint, must ascertain whether a real and subsisting cause of action is disclosed and whether the action is barred by any law. The provision is intended precisely to prevent the judicial process from being burdened by litigations, which are dead on arrival.***
>
> ***14. Turning to the judgments relied upon by the learned counsel appearing for the respondents, this Court finds that the principles***

[3] CRP No.63/2025 D.D 12.06.2026

> ***enunciated therein have little bearing on the facts of the present case. There can indeed be no dispute with the proposition that more than one suit for partition may be maintainable where joint family properties continue to remain undivided and the rights of coparceners have not crystallized. Such a principle, however, has no application to properties that already stand partitioned under a registered instrument and whose title has been accepted, acted upon, and perfected over the course of decades.***
>
> ***15. The present suit is not the one seeking division of undivided family property; it is an attempt to reopen and unsettle a partition that has stood unquestioned for over twenty years. The rights of the parties have long since crystallized. Possession has followed title. Enjoyment has followed possession. Finality has followed acceptance."***

8. He relied on the judgment of the Apex Court in ***Shakuntala and Others Vs. Robert Anthony and Others[4].*** He relies on para No.10, which reads as under:

> ***"10. The documents appended to the record of this case show that when MA bought the property, he did so, squarely in the names of his 2 wives. There is no dispute on that point. Consequently, the application of Section 33 appears misplaced for the reason that, by its application, what the High Court implies is that the property that was legally bought in the name of the 2 wives of MA is, in fact, in the eyes of the law, his property, whereas that is not the case. Since the property is in the name of the 2 wives of MA, it is their property. Now, since Filomena predeceased MA, by virtue of***

[4] 2026 SCC Online SC 1447

> ***the application of Section 35 of the ISA, MA would possess the same rights on Filomena's property as she would have in the scenario that MA would have predeceased her. The section runs thus:***
>
> ***"35. Rights of widower. -A husband surviving his wife has the same rights in respect of her property, if she dies intestate, as a widow has in respect of her husband's property, if he dies intestate."***
> ***The effect thereof would be that with respect to the part of the property in the name of Filomena, one third would rest with MA and the remaining two thirds would go to her successors in interest, that is the Plaintiffs. There would be no application of Section 33 on the entirety of the property since never did the whole property rest in the name of MA. Therefore, there was never the case that MA had died intestate and left behind a widow and further descendants. The property always rested (owned) with the 2 wives of MA. The application of section 33 via section 35, would only limit to the one half of the property that belonged to Filomena."***

9. Though notices are served on respondent Nos.1 and 2, there is no representation. Notice to R3 to R9 was dispensed with by order dated 06.01.2026.

10. Having heard the learned counsel for the petitioner, perused the entire material on record. The issues that fall for consideration are:

> ***"i. Whether on the averments contained in the plaint, the plaint discloses the right to***

seek partition notwithstanding the registered sale deed executed by their grandmother?

ii. Whether the plaint is liable to be rejected under Order VII Rule 11 of the CPC?"

At the outset, it is necessary to distinguish the ownership of the property from the plaintiff's assertion regarding the source of his acquisition. It is not disputed that the property was purchased in the name of defendant No. 1 in the year 1975. The plaintiff does not claim that the property stood in the name of the grandfather or devolved upon their grandmother by inheritance. Their specific case is that the consideration for the purchase of property was provided from joint family funds. Therefore, the question is not merely whose name the sale deed stands in, but whether the plaintiffs have established a legally recognizable foundation for treating the property as belonging to the joint family. Section 14(1) of the Hindu Succession Act recognizes the female Hindu as the full owner of the property acquired and held by her in her own right. The provision places her ownership on the same footing as that of any other absolute owner. A property purchased by a woman

from independent funds is separate property, and her children or grandchildren cannot claim partition of it merely on the basis of their relationship. However, Section 14 does not create an irrebuttable presumption that every property purchased in the name of a female member of a Hindu joint family must necessarily be her independent acquisition. Where the very source of the consideration is disputed, the nature of the acquisition must thus be determined.

11. In ***Marabasappa (D) by LRs. & Ors. Vs. Ningappa (D) by LRs. & Ors***[5], the Supreme Court held that there is no presumption that a property in the name of a female member belongs to the joint family. The burden is upon the person asserting joint family ownership to establish the existence of a joint family nucleus and that the nucleus was sufficient to finance the acquisition. This principle applies directly to the present case. The plaintiffs cannot succeed merely by asserting that their grandmother purchased the property from joint family funds. They must establish the existence of such funds and their availability at the time of acquisition in 1974. The

[5] 2011 9 SCC 451

plaint does not provide specific particulars of the properties or income constituting the alleged joint family nucleus. This is a family nucleus. Nevertheless, the plaint expressly asserts that the consideration came from joint family funds. Whether that assertion can be established is a question of proof and cannot be answered by treating the registered sale deed in the grandmother's name as conclusive of the source of acquisition.

12. The Hon'ble Apex Court in ***Smt. Shaifali Gupta vs. Smt. Vidya Devi Gupta & Ors***[6] considered this precise legal distinction by examining the rejection of a plaint in a partition suit. The properties were alleged to have been purchased from the joint family funds. Although they stood in the names of individual family members, the Supreme Court held that Section 14 of the Hindu Succession Act does not, by itself, bar the institution of a suit concerning such properties. Whether the acquisitions were made from joint family funds or constituted individual properties requires adjudication. The Court accordingly declined to interfere with the rejection of the application under Order VII Rule 11 of the CPC. Section 15 of

[6] 2025 INSC 739

the Hindu Succession Act prescribes the rules of succession to the property of a female Hindu dying intestate. Section 16 of the Hindu Succession Act regulates the order and manner of distribution of her rights. These provisions do not determine whether property purchased in the name of a female Hindu was an independent acquisition or joint family property. Hence, this Court need not go into Sections 15 and 16 of the Hindu Succession Act. The circumstances that the grandmother herself executed the sale deed along with defendant No.2, the father of the plaintiff, undoubtedly strengthen the petitioner's case. If the property was an independent acquisition, the plaintiff would have no right by birth in it, and the alienation would be binding upon them. The fact that plaintiff No. 1 was a minor and plaintiff No. 2 was born in 1997 also bears upon the nature of the rights they could have possessed at the time of alienation. A person born after a valid and completed alienation cannot subsequently acquire a right by birth in property that had already ceased to belong to the family. However, whether the transaction was an alienation of the grandmother's separate property or an alienation affecting an existing joint

family interest remains a matter in dispute. That question cannot be resolved under Order VII Rule 11 of the CPC. Then the objection concerning limitation requires independent consideration. The sale deed was executed on 24.01.1997, whereas the suit was instituted in 2024. The plaintiffs have not specifically stated when they first acquired knowledge; their reliance on the refusal of partition on 20.05.2024 cannot, by itself, revive a right to challenge a transaction that had already become barred by limitation. A subsequent demand for partition does not provide a fresh starting point for questioning the validity of every earlier alienation.

13. In ***Smt. Uma Devi and Ors Vs. Anand Kumar and Ors***[7], the Supreme Court rejected a plaint in a partition suit instituted several decades after an earlier partition and subsequent registered alienations. The difficulty in applying that decision to the present case is that the plaint explicitly denies any earlier partition and continued joint possession. Further, the property was sold not by a stranger but by the plaintiff's grandmother and father. Thus, the consequences of that alienation must be

[7] 2025 INSC 434

examined in the light of the property's legal character and the rights. If the claim concerns exclusion from joint family property, Article 110 of the Limitation Act, may become relevant. The declaratory reliefs must also be exercised with reference to the provisions governing such claims. Article 59 of the Limitation Act, cannot automatically be applied to the entire suit merely because the registered sale deed is questioned. The effect of the alienation, including the nature of possession following the sale, is therefore material for determining the limitation. The petitioner's contention that the plaintiff ought to have sought the cancellation of the sale deed is also not justified. The plaintiffs were not executants of the document. They seek a declaration that it is not binding upon their alleged shares and have sought partition and separate possession.

14. In ***Suhrid Singh @ Sardool Singh Vs. Randhir Singh & Ors[8],*** the Supreme Court distinguished between an executant seeking cancellation of his own deed and a non-executant seeking a declaration that the transaction does not bind the parties. The prayer, as framed, is not inherently impermissible.

[8] 2010 12 SCC 112

The trial court may not have specifically addressed Section 14 of the Hindu Succession Act. However, for the reasons stated above, those provisions do not establish the statutory bar apparent on the face of the plaintiff's case. The impugned order therefore does not warrant interference by this Court. This Court is of the view that the plaint cannot be rejected on the grounds raised before this Court. Accordingly, this Court is passing the following:

ORDER

i. Accordingly, the Civil Revision Petition is ***dismissed***.

ii. All I.As. in this petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

PKN
*MR