NC: 2023:KHC:36797
CRP No. 489 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF OCTOBER, 2023

BEFORE

THE HON'BLE MR JUSTICE H.T. NARENDRA PRASAD

CIVIL REVISION PETITION NO. 489 OF 2023 (IO)

BETWEEN:

1. SMT. LAKSHMAMMA
   W/O. NALLURAIAH,
   AGED ABOUT 67 YEARS

2. SRI. LOKESHA
   S/O. NALLURAIAH,
   AGED ABOUT 47 YEARS

3. SRI. ASHOKA
   S/O. NALLURAIAH,
   AGED ABOUT 42 YEARS

4. SRI. NALLURAIAH
   S/O. CHIKKAIAH,
   AGED ABOUT 71 YEARS

   ALL ARE R/AT CHOWDENAHALLI VILLAGE,
   KANDEGALA POST, KASABA HOBLI,
   PERIYAPATNA TALUK,
   MYSORE DISTRICT-571 107.

...PETITIONERS

(BY SRI. PANCHAM R D, ADVOCATE)

Digitally signed by SUMITHRA R
Location: High Court of Karnataka

AND:

1. SRI. SWAMY
   S/O LATE THOPAIAH,

AGED ABOUT 42 YEARS

2. SMT. YASHODAMMA
D/O. THOPPAIAH,
W/O. LATE VASUDEVA,
AGED ABOUT 50 YEARS

3. SMT. PUTTAMMA
D/O. THOPPAIAH,
W/O. KALASEGOWDA,
AGED ABOUT 42 YEARS

4. SMT. JYOTHI
D/O. LATE THOPPAIAH,
W/O. SANNAPPA,
AGED ABOUT 35 YEARS

5. SMT. SAVITHA
D/O. THOPPAIAH,
W/O. MAHESHA,
AGED ABOUT 39 YEARS,
R/AT NAGANAHALLI VILLAGE, H. D. KOTE TALUK,
MYSORE DISTRICT-571 114.

6. SMT. AKKAMMA
W/O. LATE THOPPAIAH,
AGED ABOUT 72 YEARS

7. SRI. RAMACHANDRA
S/O. LATE NARAYANI,
AGED ABOUT 50 YEARS

8. SRI. GANESHA
S/O. LATE NARAYANI,
AGED ABOUT 37 YEARS

9. SMT. GIRIJA
D/O. LATE NARAYANI,
W/O. RANGANNA,
AGED ABOUT 40 YEARS,
R/AT KOTE STREET, ARAKALAGUD TOWN,
HASSAN DISTRICT-573 102.

10. SMT. NALLURAMMA
W/O. LATE NARAYANI,
AGED ABOUT 70 YEARS

THE RESPONDENT NO.1 TO 4, 6 TO 8 AND 10 ARE
R/AT UPPARAGERE STREET,
OLAKOTHE, PERIYAPATANA TOWN,
MYSORE DISTRICT-571 107.

…RESPONDENTS

THIS CRP IS FILED UNDER SECTION 115 OF CPC, AGAINST THE ORDER DATED 09.06.2023 PASSED ON I.A.IX IN OS.NO.241/2016 ON THE FILE OF THE ADDITIONAL CIVIL JUDGE AND JMFC, PERIYAPATNA, REJECTING THE I.A.NO.IX FILED UNDER ORDER RULE 11(d) OF CPC, FOR REJECTION OF PLAINT.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed by the defendants under Section 115 of C.P.C challenging order dated 09.06.2023 passed by Additional Civil Judge and JMFC, Periyapatna in

O.S.No.241/2016, whereby I.A.No.9 filed by defendant No.2 under Order VII Rule 11(d) of CPC is rejected.

2. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3. Plaintiffs have filed a suit for declaration and injunction. After service of summons, the defendants appeared through the counsel and filed a written statement. After lapse of three years from the date of appearance, defendant No.2 has filed I.A.No.9 under Order VII Rule 11(d) of CPC, seeking rejection of the plaint on the ground that the sale deed has been executed on 23.11.1949 and the same is within the knowledge of the plaintiffs without seeking cancellation of the sale deed, the suit has been filed, which is barred under Article 65 of Limitation Act. Hence, they sought for rejection of the plaint.

4. It is settled law that the plaint has to be rejected on the basis of averments made in the plaint. In

the plaint averments, it was pleaded that the cause of action arises for filing the suit when the defendants were interfering with their peaceful possession and enjoyment of the suit property. The trial Court after considering the averments made in the plaint has rightly rejected I.A.No.9 filed by defendant No.2. There is no error in the order passed by the trial Court. Hence, I decline to interfere. Accordingly, the petition is dismissed.

All pending applications stand disposed of.

Sd/-
JUDGE

HB
List No.: 1 Sl No.: 45