

**IN THE COURT OF ADDITIONAL DISTRICT MUNSIF COURT,
POLLACHI.**

**PRESENT: Thiru. M.S.SREENATH, B.A., B.L.,(Hons) L.L.M.,
Additional District Munsif, Pollachi**

Monday 30th day of June 2025

IA 3/2024

In

O.S. No.427/2017

Banumathi	...	Petitioner/ 2 nd Defendant
	-Vs-	
Nirmala Devi	...	Respondent/Plaintiff

This Petition came up for final hearing before me in the presence of Thiru P.Kumaravel, learned Counsel for Petitioner, and in the presence of Thiru.S.Aswin Karthikeyan, learned counsel for the Respondent. Upon hearing the arguments of the both sides and upon perusing the materials on record and having stood over for consideration till this day, this court passes the following:

ORDER

This petition is filed under Order 7 Rule 11(a) 11 (d) of CPC by the petitioner to reject the plaint.

2. SUBMISSIONS OF THE PETITIONER

(2.1) The petitioner is 2nd defendant in the original suit and deponent herein. The deponent states that the plaint is liable to be rejected, as it fails to disclose the cause of action and also the respondent plaintiff has not impleaded the necessary parties in the suit. The deponent states that the respondent is first wife of (late) A.C Chinnadurai, who married the respondent on 03.02.1976, and the couple have a daughter named C.Priya born in the year 1981. Subsequently, due to difference of

opinion A.C. Chinnadurai filed a petition seeking divorce before the learned Sub Judge, Udumelpet as H.M.O.P. No: 90/1986 in which the respondent made her first appearance on 28.11.1986. Further the respondent failed to appear wantonly in the subsequent hearings due to which the learned Sub Judge of Udumelpet, passed an ex-parte decree by dissolving the marriage between the respondent and A.C.Chinnadurai, against which the respondent failed to take any further action within the stipulated period of limitation.

(2.2) Further after the dissolution of the said marriage between this respondent and A.C.Chinnadurai, this deponent legally married this A.C Chinnadurai on 04.04.1988 and led a happy life, due to which they had a daughter named Aparna born on 24.08.1993 out of their wedlock. Further the petitioner's husband A.C.Chinnadurai deceased on 21.03.2014 leaving behind the 1, 2 defendants and the above said Aparna as his legal heirs. Furthermore, the legal heir ship certificate was issued by the competent authority by stating this deponent and her daughter Aparna as the legal heir of late A.C.Chinnadurai. It is pertinent that the legal heir ship certificate issued by the competent authority is genuine and not faulty.

(2.3) Further after the dissolution of her marriage with A.C.Chinnadurai, the respondent got married again to a person named Sakthivel, since then is residing in the afore mentioned address as a family with her husband and her daughter born out of her wedlock with said Sakthivel. In the said scenario, respondent have instituted this suit in hand by pleading false averments and also by suppressing the material facts, with an intent to file this suit with a cause of action which is not in existence. As a matter fact, the petitioner's suit neither has a cause nor an action that arose out of the alleged the cause. Further the respondent has instituted this suit without adding the legal heirs of late A.C.Chinnadurai namely Mrs Aparna born to the deponent and Mrs Priya born to the respondent out their marriage with A.C.Chinnadurai

respectively as the necessary parties to this suit. Hence, this suit is bad for non-joinder of necessary parties, upon this ground alone this plaint is liable to be rejected.

(2.4) Further the prayer of the respondent in the original suit is to declare her as the legal heir of deceased A.C.Chinnadurai is not maintainable, as the prayer is in conflict with decree passed by a court of higher jurisdiction. i.e. the decree dissolving the marriage between the respondent and A.C.Chinnadurai in H.M.O.P.No. 90/1986. The respondent failed to take any steps against the impugned order passed the above court by exercising his remedy before any appellate court. For that reason itself the plaint liable to be rejected and taken off the file of this Hon'ble Court for lack of jurisdiction.

(2.5) Further the plaint does not disclose any cause of action and the alleged cause of action stated in the plaint has no remedy in the eyes of law which makes it liable to be rejected. Furthermore, the respondent/plaintiff has instituted this suit with an intent to receive an unlawful gain by deceiving this Hon'ble Court, which is evidently an abuse of process of law. It is a settled principle of law that the pleadings should carry the fact as a whole, whereas this plaint has been presented by the plaintiff, in such a manner by concealing numerous facts, which also includes an order passed by a court of law.

(2.6) In accordance to the fore going provision of Code of Civil Procedure, a plaint is liable to be rejected when it fails to disclose any cause of action, further the deliberate suppression of material facts by the respondent/plaintiff displays the malafide demeanor and intention of the respondent/plaintiff. The respondent not being the wife of the deceased A.C Chinnadurai, have no prima facie to seek prayer as pleaded in the plaint. In sum, for the afore mention reasons, the plaint in this suit liable to be rejected.

3. COUNTER OF RESPONDENT/PLAINTIFF:

(3.1) This respondent denies each and every content in the affidavit are false, frivolous, and baseless and puts the petitioner/2nd defendant to strict proof of the same, this respondent denies Para 2 of the petition, as alleged by the petitioner in the affidavit. This respondent submits that, this respondent filed a suit for Declaration of the respondent/plaintiff as legally wedded wife before this Hon'ble Court and the suit is pending for defendant side evidence. This respondent denies Para 3, 5 and 5 of the Plaint, except those that are specifically admitted herein. The respondent admit that the marriage between the respondent and A.C. Chinnadurai was solemnized on 03.02.1976, a female child was born out of wedlock namely C. Priya born in the year 1981.

(3.2) This respondent submits that as alleged in the affidavit that, Ex-parte Decree of Divorce obtained by A.C. Chinnadurai in the year 1986 in HMOP No. 90/1986, before the Sub Judge, Udumelpet, which cannot be accepted by this respondent, if the Expatre Decree obtained in the year 1986, this petitioner would have replied through her reply notice, even the mother in-law who were in contact with this respondent, who is also party in the suit proceeding remained ex-parte never revealed any such order of Divorce at all. This respondent submits that, after the demise of A.C. Chinnadurai in the year 2014, the 2nd respondent had obtained Legal heirship Certificate suppressing the real facts, in fact the petitioner is admitting C. Priya was born out of wedlock between A. C. Chinnadurai and this respondent, the legal heirship certificate issued by the Tahsildar, Pollachi Taluk, did not carry name of the Mrs. C. Priya, which goes to show that the petitioner had not come with clean hands before this Hon'ble Court, have been introducing new facts every now and then to drag this case as much she can.

(3.3) This respondent denies Para 5 of the affidavit, this respondent did not get married to anyone named Sakthivel, as this respondent were working at this age as a Care taker for a family. This respondent denies Para 7 of the affidavit, as this suit is filed for declaring this respondent / plaintiff as legally wedded wife, not for Legal heirship certificate, there is no material facts suppressed, all the necessary parties were added in the said suit, there is no question of adding my daughter Mrs. C. Priya in the said suit at all. This respondent submits that, this suit is very well maintainable before this Hon'ble Court, there were no Divorce Proceedings held between myself and my husband A.C. Chinnadurai, in fact the cross-examination were of PW-1 was made in full in the year 2022, the case is posted for defendant side evidence, this petitioner to avoid her side evidence has been filing petitions before this Hon'ble Court, initially filed a Re-Open and Recall petition which was dismissed by this Hon'ble Court and by the Hon'ble High Court, thereafter filing this Rejection Petition to drag the proceedings without any reason.

(3.4) This respondent submits that, the petitioner has not produced and material evidence, and thus this petition is nothing but a harassing a Senior Citizen. The suit is very much maintainable and all the necessary parties were added in this suit. Hence this petition is liable to be dismissed.

4. DISCUSSIONS

(4.1) Heard both sides. Records perused. Rival submissions considered. The petitioner in this petition has prayed for rejection of plaint on the ground of suppression of cause of action by suppressing the factum of divorce between respondent/plaintiff and deceased A.C.Chinnadurai decreed by the Hon'ble Sub Court, Udumalpet in HMOP No.90/1986 dated 09.11.1987. A certified copy of the register of original petitions of the aforesaid court in HMOP.No.90/1986 has been

marked as Ex.P1 and Voters List has been marked Ex.P2. The respondent/plaintiff has strictly denied as the alleged divorce in HMOP.No.90/1986.

(4.2) It is settled law that while exercising power under the 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. At this state, 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. The test for exercising the power under Order VII 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. Hence, considering the aforesaid proposition of law, the alleged divorce in HMOP.No.90/1986 is a plea taken by the defendant in the written statement and application of rejection plain and hence, the same is irrelevant and cannot be adverted to or taken into consideration. It is trite law that only plaint and its documents ought to be considered while deciding a petition under Order 7 Rule 11 of CPC and no other document produced by the defendant need to be considered and hence exhibits Ex.P1 and Ex.P2 cannot be taken into consideration. The alleged divorce is want to be proved in course of trial and cannot be determined at this nascent stage of trial. Hence in cumulative effect of the aforesaid discussion, this court is not inclined to allow this petition.

IN THE RESULT, this petition is DISMISSED No costs.

Dictated by me, typed by steno-typist on my computer and corrected by me and pronounced by me in open court on this 30th day of June, 2025.

Sd.....(M.S.SREENATH)
ADDITIONAL DISTRICT MUNSIF
POLLACHI

Petitioners side Witnesses :Nil

Petitioner's side documents:

Doc No.	Date	Name of the Documents	Nature of document
Ex.P1	-	Register of original petitions	Certified copy
Ex.P2	-	Voters List	Copy

Respondent's side witnesses and documents: Nil

Sd.....(M.S.SREENATH)
ADDITIONAL DISTRICT MUNSIF
POLLACHI

Fair Order
Fair/Draft
I.A.No.3/2024 in O.S.427/2017
Date: 30.06.2025
Additional District Munsif Court, Pollachi
