

IN THE COURT OF THE DISTRICT MUNSIF, SULUR.Present : **Tmt.N.Renuga**, B.A., B.L.,

District Munsif, Sulur

Thursday, the 20th day of March 2025**I.A.No.4/2024****in****O.S.No.80/2023**

M.Shantha

...Petitioner / Defendant

/ Vs /

N.Priya

...Respondent / Plaintiff

This petition is coming on 21.02.2025 for final hearing before me in the presence of Mrs.C.Theivabharathi, Advocate for the Petitioner and Mr.K.Srikumar and Mrs.N.Premalatha, Advocates for the Respondent and on hearing of submission of both parties upon perusing the records and having stood over for consideration till this day this Court delivered the following :

ORDER

Petition filed by the petitioners under Order 7 rule 11 of CPC to reject the plaint filed by the respondent/ plaintiff in O.S.No.80/2023.

1. The brief averments of the petition affidavit filed by the Petitioner as follows:-

1.1. The respondent/ plaintiff has filed the suit in O.S.No.80/2023 before this court for permanent injunction restraining the defendant, his agents from disturbing the possession of the suit schedule property viz., the site No.39 of Gandhi Nagar Layout of Kannampalayam village by planting boundary stones and making barbed wire fencing.

1.2. The respondent/plaintiff has filed suit in O.S.No.80/2023 with clever drafting of the plaint creating illusory cause of action and misusing the process of this court and on this ground alone, this court is having jurisdiction to reject the plaint of the respondent/ plaintiff in O.S.No.80/2023.

1.3. The respondent/ plaintiff has averred and admitted in the plaint that, even

before the filing the suit in O.S.No.80/2023, she has obtained the certified copy of decree of permanent injunction granted by the I Additional District Munsif, Coimbatore in favour of petitioner/ defendant in O.S.No.1112/2013 dated 05.12.2024, under which the defendant viz., K.P.Murugayyan, M.Viswanathan, M.Thilakavathi, M.Sumathi, Suppathal, M.Jayakumar, S.Sakunthala, S.Sivakalai, S.Krishnammal and Saraswathi have been directed to execute the sale deed in favour of petitioner/ defendant as per the sale agreement dated 01.11.1987 in respect of the suit schedule property, including the suit schedule property in O.S.No.80/2023 viz., the site No.39 of Gandhi Nagar Layout, of Kannampalayam village within two months from 05.12.2014 and also the court was kind enough to grant a decree, that the 1st to 10th defendant and their agents, be and are restrained by means of permanent injunction from disturbing the possession and enjoyment of the suit schedule property by petitioner/defendant and the schedule of property in O.S.No.1112/2013 is திருப்பூர் ரிடிடு, சூலூர் சப்டி, பல்லடம் தாலூக்கா, தற்பொழுது சூலூர் தாலூக்கா, கண்ணம்பாளையம் கிராமம், க.ச.404 நெ.காலை பு.ஏ.9.38 க்கு தரம் ரூ.7.62 விஸ்தீரணம் கொண்ட பூமியும் மேற்படி பூமிக்குண்டான மாமூல் வழிநடை தட பாத்தியமும் சகிதம். மேற்படி காலையிலுள்ள துரஸ்து கிணர் 1 ஒன்றும் சகிதம் மேற்படி சொத்து கண்ணம்பாளையம் டவுன் பஞ்சாயத்துக்குட்பட்டது.

House sites No.5, 7, 10, 14, 22, 26, 31, 36, 39, 39A, 39B, 39C, 40, 57, 63, 66, 82, 83, 84, 106A, 106B, 112, 118 and 119 situated in the 9.38 acre Gandhi Nagar Layout spreading in S.F.No.404 of Kannampalayam Revenue village, Palladam Taluk at present Sulur Taluk of Coimbatore District.

1.4. The respondent/ plaintiff has further proved her knowledge about the decree of permanent injunction granted by the I Additional District Munsif, Coimbatore in favour of petitioner/ defendant in O.S.No.1112/2013 dated 05.12.2014 by filing the certified copy of the same as plaint doc.No.7 and thus the respondent/ plaintiff has unequivocally admitted that the suit schedule property in O.S.No.80/2023 is a part of the schedule of property in O.S.No.1112/2013 and

already the decree of permanent injunction has been granted in favour of petitioner/defendant and the filing the O.S.No.80/2023 for a decree of permanent injunction for the same decree mentioned property is a gross violation and a gross contempt of the decree in O.S.No.1112/2013 and misusing the process of this court and no cause of action arise in favour of the respondent/ plaintiff and no issue can be framed by this court under order XIV of CPC.

1.5. Order VII rule 11 of CPC reads 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 returned 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) Provided that the time fixed by the court for the correction of the valuation or supplying of the requisite stamp-paper 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 nature from correcting the valuation or supplying the requisite stamp-paper, 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.

1.6. In the case of Madanuri Sri Ramachandra Murthy Vs Syed Jala, (2017) 13 SCC 174 referred in the ruling of the Hon'ble Supreme Court in Ramisetty Venkatanna & Anr. Verses Nasyam Kamal Sheb & others 2023, it is held that, "Even when the allegation made in the plaint are taken to be correct as a whole on their face value, if they show that the suit is bared by any law or do not disclose cause of action, the application for rejection of plaint can be entertained and the

power under order VII Rule 11 of CPC can be exercised if clever drafting of the plaint has created illusion of cause of action, the court will nip it in the bud at the earliest so that bogus litigation will end at the earlier stage”

1.7. And also in the case of T.Arivanadandam Vs T.V.Satyapal (1977) 4 SCC 467 referred in the above same Ruling of the Hon’ble Supreme Court that, it is held,

“the plaint is vexatious and meritless and creates illusion of cause of action by clever drafting the same should be rejected at the earliest”.

1.8. The respondent/plaintiff has also proved her knowledge about the suit schedule property in O.S.No.80/2023 is a part of the schedule of property in the decree of permanent injunction in O.S.No.1112/2013 by filing the certified copy of the sale deed in doc.No.506/2021 dated 18.01.2021 of SRO, Sulur as plaint document No.1 and the registration of the same decree of permanent injunction, by petitioner/ defendant before the SRO Sulur as document No.656/2023 dated 13.01.2023 by filing plaint document No.8.

1.9. The above facts about the knowledge of the respondent/ plaintiff need not be again proved by petitioner/ defendant again, as per section 58 of Indian Evidence Act and also the respondent/ plaintiff is estopped from denying the above admitted facts as per section 115 of Indian Evidence Act under the “Doctrine of Estoppel” and there is not cause of action in favour of respondent/ plaintiff and the above O.S.No.80/2023 filed by the respondent/ plaintiff is grossly violating and a gross contempt of the decree of permanent injunction in O.S.No.1112/2013 dated 05.12.2014 and the respondent/ plaintiff has no cause of action to file the O.S.No.80/2023 and it is misuse of process of this court and liable to be rejected by this court under order VII Rule 11 of CPC.

1.10. The respondent/ plaintiff is a stranger to the decree of permanent injunction in O.S.No.1112/2013, which already attained finality and all the adverse comments and illegal discussions in her plaint with regard to the contents of the judgment, decree and evidences are amounting to interfering with the course of justice and willfully committing criminal contempt of court under section 2(c) and

punishable with imprisonment and fine or with both as per section 12 of the contempt of courts Act 1971 and the respondent/ plaintiff is not entitled to any relief from this court.

1.11. This court is having jurisdiction to entertain this petition filed under order VII Rule 11 at any stage of the suit before the conclusion of the trial. Hence, the petition is to be allowed.

2. The breif avernments of counter statement filed by the Respondent as follows:-

2.1. The petition is baseless frivolous, false, vexatious and unsustainable under law and on facts. The respondent/plaintiff purchased the suit property in site No.39 on 18.01.2021 from one Mohan son of Ramalingam. The said Mohan purchase the suit property on 10.03.2008. After purchase the suit property this respondent / plaintiff alone in possession and enjoyment of the suit property.

2.2. On 05.06.2023 six persons joint together came to the suit property ans stated that the petitioner/ defendant have executed sale agreement along with one Madavi Kutti, P.T.Kunchibalu in favour of one K.P.Murugaiyan, Thilagavathi, Sumathi and Minor Jayakumar one Subbathal, K.P.Subbaian, Sankunthala, Sivakalai, Krishnammal, Minor Vijayakumar and Guardian Saraswathy by agreeing to sell the property for Rs.5000/- per acre to the total extent of 9.38 acres and received advance of Rs.15000/- and agreed to execute the sale deed within six month and executed agreement on 01.11.1987.

2.3. Further the defendant and the said Madavi Kutti and Kunchibalu are jointly executed business agreement on 07.12.1987 by agreeing to sell the property by dividing the same as plots. But on perusal of the 07.12.1987 agreement the stamp paper denotes the date which purchased on 23.03.1988. Further on perusal of the agreement the further endorsement of receipt of Rs.5000/- on 13.06.1988 and Rs.17000/- on 19.09.1988 and Rs.5000/- on 03.09.1988 has been made by the above 10 members.

2.4. Further the doc.No.88/1988 and 90/1988 also registered before the Singanallur Sub Register Office. But in all the endorsements it was made by only

Murugaiyan and K.P.Subbaian not by other agreement executed. After that the six members have stated about suit in O.S.No.1112/2013 and the plaintiff got the copy of O.S.No.1112/2013 and came to know about that in the year 2013 the defendant have filed suit for specific performance and the same was decreed. But the defendant has not proceeded further to get execute the sale deed she instead got the sale deed she registered the said decree before Sub Register Sulur in doc.No.656/2023. After that the defendant had with his hoolings have come to suit property and threatened the plaintiff hence, the plaintiff immediately filed the present suit for permanent injunction. Hence, the reason stated in the petition to reject the plaint is not correct. This petition ought to have dismissed.

3. Point for Consideration:-

Whether the petition to reject the plaint under Order 7 Rule 11 of CPC is to be allowed?

4. Points:-

4.1. Heard learned counsels for both the parties and records perused. On perusal of records the plaintiff filed the present suit for permanent injunction by stating he is the purchaser of the suit property from one Mohan through the sale deed dated 18.01.2021 and the said Mohan was purchased the suit property on 10.03.2008. The defendant who being agreement holder dated 01.11.1987 from one K.P.Murugaiyan vagayara they filed suit in O.S.No.1112/2013 and got ex parte decree for specific performance of the said sale agreement. Further the defendant has not filed any EP to get execute the sale deed in favour of them, instead of doing so, they registered decree before Sub Register Office, Sulur in doc.No.656/2023 and the respondent/defendant after registering the said decree have approached the plaintiff in suit property, then the plaintiff filed the present suit for permanent injunction.

4.2. After receiving the notice, the defendant appeared and filed the present petition to reject the plaint on the ground that, there is no cause of action and suit is barred by law. On perusal of records, whether the plaintiff having proper title over

the property or having lawful possession over the property is the matter to be decided on the merit. The Judgment in O.S.No.1112/2013 is only for specific performance, further the defendant has to prove the facts that how they got the title and possession of the property without executing the decree, and by simply registering the decree before Sub Register Office, Sulur it will not affect the right of plaintiff filing the present suit. Further if any decision made by the Hon'ble I Additional District Munsif, Coimbatore Court in O.S.No.1112/2013 it would operate as Resjudicata in the subsequent suit, it is mixed question of law and fact it decided only after examining the both side oral and documentary evidences in trial. Without examining the oral and documentary evidences the plaint can't be rejected on the ground of Resjudicata. Hence, in the interest of justice for the reasons stated in the affidavit the plaint can't be rejected.

In the result, this petition is dismissed. No cost.

Dictated to the Steno-typist and directly typed by her in computer, corrected and pronounced by me in open court this the 20th day of March 2025.

Sd/N.Renuga

District Munsif,

Sulur.

List of witnesses and documents on Petitioner side:-

Nil

List of witnesses and documents on Respondent side:-

Nil

Sd/N.Renuga

District Munsif,

Sulur.

Draft/ Fair Order
I.A.No.4/2024 in
O.S.No.80/2023
Dated : 20.03.2025
DMC, Sulur.