

IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, CHIDAMBARAM

Present:Tmt.E.Swetha, B.B.A., L.L.B (Hons)

Additional District Munsif

Chidambaram

Tuesday, the 28th day of July 2026

IA.NO.207/2026 in OS.64/2016

Ravichandran

...Petitioner/Plaintiff

/Vs/

1. The District Registrar,
District Registrar Office,
Chidambaram.

2. The Sub Registrar,
Sub Registrar Office,
Parangipettai

3. Ramakrishnan

4. Sudhakar

...Respondents/Defendants

This petition is coming on 22.07.2024 for final hearing before me in the presence of Thiru.S.Devanathan, Advocate for petitioner and Respondents No. 1,2 exparte in suit and Thiru.N.Rajendiran, Advocate for Respondent No.3 & 4 and upon hearing the argument of both sides and on perusal of case records and having stood over for consideration till this day, this court delivers the following:

ORDER

This Petition filed under Order XXIII Rule 1(3) of CPC to withdraw the suit with liberty to file a fresh suit on the same cause of action and a different cause of action and for costs.

2. The case of petitioner:

2.1 The petitioner herein is the plaintiff and the respondents are the defendants in the main suit. The petitioner has prayed for injunction restraining respondents 1 and 2 from registering any document executed by 3rd respondent. The counsel who prepared the suit is no more. The petitioner is now informed that such a suit will not lie. The petitioner is now informed that such a suit will not lie. Apart from that, the prayer reads as if injunction should be granted till the disposal of the suit. The prayer sounds like an interim prayer. The suit is said to be defective.

2.2 The petitioner is further informed that in any suit wherein government servants are parties, the State represented of the Collector should be made a party. However, the State has not been impleaded. The petitioner is not conversant with law. The deceased counsel chose the prayer. The petitioner is now informed that the suit cannot be proceeded with, with the defects. There is no point in proceeding with a defective case. Hence, the petitioner wants to withdraw the suit with liberty to file a fresh suit with appropriate reliefs.

2.3 No prejudice will be caused to the respondents. In the absence of liberty technical defects may arise and the petitioner may be affected. It will give room for legal impediments. Therefore, the petitioner seeks to withdraw the suit with liberty to file a fresh suit on the same cause of action and a different cause of action and pass such further or other orders as are deemed fit. Hence this petition.

3. The case of Respondents 3 & 4:

3.1 The Petition is not maintainable in law and is liable to be dismissed in limine. The petitioner having filed this suit in 2016, the 3rd respondent has contested the case for the past 9 years. Further there are multiple suits between the petitioner and the 3rd respondent. Specifically, before this court the suits O.S.Nos.265/2015, 361/2015,

161/2016, 162/2016, 163/2016, and 164/2016 had been instituted and other suits have been transferred to the Hon'ble Additional District Court, Chidambaram. Additionally, cases such as O.S. Nos.259/2022, 116/2023, and 145/2023, along with others, are currently pending before the Hon'ble Additional District Court, Chidambaram. In this context, the petitioner had filed a petition in Tr.OP.No.152/2022 before the Hon'ble Principal District Court, Cuddalore, seeking the transfer of the present case to the Additional District Court, Chidambaram; however, that petition was dismissed on 25.07.2023. Aggrieved over the same, the petitioner filed a C.R.P.No.3976/2023 before the Hon'ble Madras High Court, but no stay order was granted in those proceedings. It appears that the said C.R.P.No.3976/2023 remains pending.

3.2 Since the suit lacks merits, the petitioner having prolonged the suit, including filing Tr.OP.152/2022 to transfer the case to the Hon'ble Additional District Court, Chidambaram, which resulted in an order adverse to the petitioner, the petitioner has now suddenly filed the instant application seeking to withdraw the suit with liberty to file a fresh one. The same is not legally maintainable and is liable to be dismissed. The petitioner has filed this application suppressing all the aforementioned facts, as well as the pendency of CRP before the Hon'ble Madras High Court. The petitioner cannot withdraw the suit while C.R.P.No.3976/2023 is pending. Furthermore, the petitioner has no right to seek 'liberty' in this application and is not entitled to it. Moreover, having filed the suit in 2016 and caused significant expense and mental agony, the petitioner's current attempt to withdraw the suit is untenable. It is not specifically mentioned as to what is the 'technical defect'. The petitioner attempting to withdraw the suit with liberty is not sustainable. The petitioner has not approached the court with clean hands and hence the respondents seek dismissal of the petition.

4. Respondents No. 1,2 set exparte in main suit.

5. Now the point for consideration is whether the petitioner is entitled to get the relief as prayed for?

6. On the side of both parties, no oral and documentary evidence was let in.

7. Discussion:

7.1. Heard the learned Counsels of both sides. Material records perused. The suit is filed for permanent injunction. The suit was filed in the year 2016. The suit is pending in the stage of stay order if any and CRP No. 3978/23 is pending before Hon'ble High Court, Madras. Subsequent to which, this petition is filed under Order XXIII Rule 1(3) of the Code of Civil Procedure, seeking permission to withdraw the present suit with liberty to file fresh suit.

7.2 According to the petitioner, the suit for injunction, as originally framed, is defective and not maintainable, as the relief sought appears to be in the nature of an interim prayer and necessary parties, namely the State represented by the Collector, have not been impleaded. It is contended that there are formal defects in the suit and that the petitioner is not conversant with law. Hence, the petitioner seeks permission to withdraw the suit with liberty to file a fresh suit, stating that no prejudice would be caused to the respondents.

7.3 Per contra, respondents 3 and 4 oppose the petition, contending that the suit has been pending since 2016 and has been contested for several years amidst multiple litigations between the parties. They further submit that the petitioner, after facing adverse orders in transfer proceedings and while a Civil Revision Petition is pending before the Hon'ble High Court, has filed the present application suppressing material facts. According to them, the petitioner has not specified any valid formal defect and is attempting to protract the litigation. Hence, they contend that the petitioner is not entitled to withdraw the suit with liberty and seek dismissal of the petition.

7.4 It is evident that the petitioner admits formal defects and seeks to correct them by instituting a fresh suit. Further it is to be observed that this is the suit for permanent injunction and the plaintiff himself states that the prayer in the suit is framed in the nature of an interim prayer and necessary parties, namely the State represented by the Collector, have not been impleaded and that the suit may fail on the ground of formal defect in the event of proceeding the suit. Therefore, this court cannot compel a plaintiff being the *dominus litis* to conduct the suit when the plaintiff himself has admitted that there exists such technical defects.

7.5. Under Order XXIII Rule 1(3) of the Civil Procedure Code, withdrawal of a suit with liberty to institute a fresh one may be permitted if the suit is bound to fail due to a formal defect or if sufficient grounds exist for such withdrawal. In the present case, the petitioner has asserted that the suit is affected by formal defects. These defects may materially affect the outcome of the suit if allowed to proceed in the present form. With all due respect to the Hon'ble Madras High Court, it is observed that pendency of Civil Revision Petition does not by itself operate as a bar with the consideration of the present petition especially in the absence of any stay order.

7.6. However, this Court takes serious note of the allegations of the petitioner's tactics to prolong the case and also that the suit pertains to the year 2016. Nevertheless, to balance substantive justice and avoid multiplicity of proceedings, this Court is inclined to allow withdrawal with liberty, subject to condition.

7.7. Accordingly, this Court holds that the petitioner is permitted to withdraw the present suit and is granted liberty to institute a fresh suit. The liberty granted shall be subject to payment of costs of Rs.2000/- to be paid to 3, 4 Respondents in toto, payable on or before 31.7.2026 by the petitioner.

In the result, this petition is allowed on payment of cost of Rs.2000/- to the 3, 4 Respondents in toto, payable on or before 31.7.2026 by the petitioner. For reporting compliance, the matter is posted on 31.07.2026.

Dictated to the steno-typist, transcribed by her and typed in computer, corrected and pronounced by me in the open court this the 28th of July 2026.

(Sd/-E.Swetha)

Additional District Munsif,
Chidambaram.

List of witnesses and documents on the both sides: NIL

(Sd/-E.Swetha)

Additional District Munsif,
Chidambaram.