

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE
AT CHENGALPATTU

Present: Thiru.A.Saravanakumar.,B.A.B.L.,
Additional District Judge,
Chengalpattu.

Monday, the 8th day of September 2025

I.A.No.380/2017

in

O.S.No.38/2015

CNR.No:TNCG01-000120-2015

S.Arumugham

...Petitioner/9th Defendant

s-Vs.-

1.T.Mohanlal Kankariya

2.M.Suresh Kumar Kankariya

...Respondents/ Plaintiffs

This Petition coming before this court on 8.8.2025 for final hearing in the presence of Mr.R.S.Rhagavan, counsel for the Petitioner/9th Defendant and Sri.A.M.Rajesh, counsel for the Respondents/Plaintiffs and upon hearing the arguments of both sides and perusing the material records and having stood over for consideration till this day, this Court delivered the following:-

ORDER

The petition is filed under Order 7 Rule 11 (a) & (d) of CPC to reject the plaint in OS.No.38/2015 since it is filed when no cause of action arose, hit by Order 2 Rule 2 of CPC and abuse of process of the court.

2. The Petition averments in brief as follows:-

The petitioner is the 9th defendant in the suit. Filing this application on behalf of other defendants 1 to 8 and 10 to 12. The original suit was

filed for the recovery of money allegedly received by the defendants. The claim of money by the respondents has not been received by the defendants either as legally liable debt or execution of any pronote. Previously so many suits are pending before this court with same subject matter and further suit like this is a vexatious one ought to have been dismissed. The petitioner's grandfather late Kullappa Gramani, was permanently settled at Navalur village. /during his lifetime he married two wives. His legal heirs are Ganesan and Subramani were sons of Tmt. Ammaniammal and Ranganathan is son of Tmt.Packiammal. The said Ganasan died and Subramani had 3 sons and one daughter viz 1.Mrs.Chandra, 2.S.Palani 3.S.Durai and 4.S.Arumugam who is the petitioner. The said Palani was expired and his legal heirs are Mrs.Valliammal, Mrs.Sumathi, Mrs.Premalatha and Ms.Kalaiyarasi. The legal heirs of late.Subramani are declared as legal heirs of late. Ganesan by the District Munsif court, Chengalpattu on 13.8.2013 in O.S.No.192/2012. Now the legal heirs of late Ganasan, Subramani and Ranganathan are successor-in- interest of late.Kullappa Gramani. They owned and enjoyed so much of lands at Navalur Village and one such land in S.No.176 of an extent of 2.16 acres land is subject matter under dispute. The properties acquired by the said kullappa Gramani was his own self acquired which were covered under patta No.10 of 1911 Adangal register. After his death, his brother Perumal Gramani sold half the share in S.No.176 to one Nagarathinamal in 1944 in Doc.No.1173 of 1944. In this sale deed he clearly indicated in the

bounderies that other half of the share belonged to Ganesa Gramani Vagaiyara. Tmt.Packiammal, 2nd wife of Kullappa Gramani and her son Ranganthan sold other half share of property in S.No.176 to one Muthusamy Gramani in Doc.No.640/1950 dated 30.6.1950. The said Ranganathan not only sold his own share of 0.36 cents but also sold the shares of Ganesan and Subramani without their consent. The petitioner and his family members are legal heirs of Ganesan and Subramani and they are absolute owners of the 2/3 share ie) 0.72 cents. After the death of Muthusamy Gramani, when his daughter was alive enjoyed that property and her close relative one Jagadeesa Gramani grabbed that property and obtained patta in his name along with some other property viz patta No.253. After the death of Jagadeesa Gramani, his legal heirs executed a power of attorney for this lands to M.Suresh Kumar Kankariya in 1995 under registered Doc.No.459/1995 and the same was sham and nominal documents and they have no right over the property. The 2nd defendant allegedly obtained Power of Attorney from the persons who are not legal heirs of Muthusamy Gramani. Then he further formed a layout called Suresh Nagar without approval of the DTCP and completion of other formalities and sold the plots to 16 persons without approval. The petitioner came to know this on 15.12.2012 and their land were grabbed by various persons. Then the petitioner issued legal notice dated 26.12.2012 to respondents. The Suresh kumar made a compromise with him and pursuant to that a mutual agreement on 11.4.2012 with mediator by advocate

Surana. The petitioner executed power of attorney in favour of 1st respondent to promote Suresh nagar layout in Doc.No. 438/2012 dated 11.4.2012 to an extent of 2.16 acres of land in S.No.176 of Navalur Village. The 1st respondent agreed to give 0.12 cents of lands in S.No.149 of Navalur Village which is a suit schedule property in O.S.No.214/2013 as compensation. The respondent executed a power of attorney in Doc.No.437/2012 dated 11.4.2012 in favour of petitioner to an extent of 0.06 cents in S.No.149 and promised to give another 0.06 cents of lands in latter stage. The respondent executed a sale deed in favour of petitioner's wife in Doc.No.8327 of 2012 dated 27.8.2012 as power agent. Further obtained patta in her name in C.A.No.1062 of 2014 dated 7.3.2014 and has been in possession and enjoyment of the property till now. The petitioner received legal notice dated 25.11.2013 from the respondent stating that the mutual agreement between them cancelled after alleged cancellation deed executed by petitioners family member dated 22.7.2012. After knowing the fraudulent act of the respondent the petitioner gave criminal complaint against the respondents before District Superintendent of Police, Kancheepuram on 5.5.2014 as CSR.No.1191/2014 and the same is pending. Now the petitioner filed a suit before this court in O.S.No.61/2015 claiming his ancestral land as the relevant documents. The amount specified in the plaint that Rs.15,00,000/- received by family members of the petitioner totally untrue and wrong. As per the mutual agreement, the amount specified is Rs.5,00,000/- and also the amount specified in the cancellation

deed is Rs.5,00,000/-. The mediator Advocate Surana received Rs.10,00,000/- for his part and he himself kept the entire Rs.15,00,000/-. The suit is a vexations, frivolous one built with concocted story and if it is allowed, it would consume the precious time of the court. Hence, the plaint should be rejected in accordance with abuse of process of court. As per the mutual agreement dated 11.4.2012 the plaintiff ought to have 0.12 cents for lose of lands in S.No.176. Clause 4 of mutual agreement dated 11.4.2012, the party of the second part has given Rs.5,00,000/-. As advocate consideration to the first part for this agreement which amount shall be handed over to the common advocate who shall retain the same and hand it over to the party of the 1st part once all the transaction under this agreement are over. Hence, no cause of action will arose to file this vexatious suit against the petitioner. The respondent issued a legal notice dated 25.11.2013 demanding to pay Rs.15,00,000/- to the petitioners. On 3.12.2013 reply was given with strong terms of illegal claiming of cancellation of mutual agreement dated 11.4.2012. After the respondents filed a suit against the petitioner/9th defendant in O.S.No.214/2013 dated 17.12.2013, prayed to cancel the sale deed in Doc.No.8327/2012 dated 27.8.2012 which schedule of property is the by product of the mutual agreement dated 11.4.2012. In para 9, it is mentioned that the 1st defendant and his family members has already received a sum of Rs.15,00,000/- from the plaintiff in pursuance of the agreement dated 11.4.2012. The earlier suit and the present suit filed by the same plaintiffs in O.S.No.38/2016

revolved around the agreement dated 11.4.2012 between the parties. The respondents failed to file a comprehensive suit for recovery of money along with the suit for cancellation of sale deed in Doc.No. 8327/2012 as both are connected with same property and same parties. Further the respondent failed to obtain leave of the court to file the suit for recovery of money under order 2(3) rule 2 of CPC. At the time of filing the first suit on 17.12.2013 in OS.No.214/2013, mutual agreement dated 11.4.2012 alleged to be violated this notice was issued on ought to have filed a comprehensive suit at the time of filing only suit for cancellation of sale deed. Subsequent suit for recovery of money filed by respondents is barred under order 2 rule 2 CPC. Once a plaintiff omits to sue in respect of or intentionally relinquishes any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished. After institution of suit in OS.No.214/2013, the respondent issued a legal notice dated 27.3.2014 invited for compromise is illegal, unethical and unwarranted. Since the money as claimed by the respondents is illegally kept by advocate Surana. In order to harass the petitioner the vexatious suit was filed. At this juncture, the above suit to be rejected on the grounds of (a) No cause of action arose for institution of this suit (b) Barred by any law i.e. the suit is hit by order 2 rule 2 of CPC. In these circumstances, the petitioner has no other option except to approach this court to secure the ends of justice and to avoid the abuse of process of the court. Hence, the petition.

3.The averments in the counter filed by the 2nd Respondent Adopte by the 1st respondent in brief as follows:-

The petition filed by the petitioner is unsustainable in law and on facts of the case. All the allegations made in the affidavit filed in support of the petition are specifically denied. The application is a highly misconceived one. The claim of money by the respondents has not been received by the defendants either as legally liable debt or execution of any pronote and that previously so many suits are pending before this court with same subject matter and further suit like this is a vexatious one ought to have been dismissed 'inlimini' are all absolutely false and baseless. The plaint documents 1 and 2 itself would prove that the petitioner and his family members who are the defendants, have received a sum of Rs.15,00,000/-. The petitioner and his family members have also signed in the agreement and the receipt acknowledging the receipt of payment of money. The respondents submits that neither the petitioner nor his family members can say that they did not receive the sum of Rs.15,00,000/- from the respondents. There is proof of acknowledgments in the form of documentary evidence for the same. It is very well settled that the court has to look into the plaint averments and plaint documents alone while deciding an application to reject the plaint. The Doc.No.8327/2012 dated in 27.8.2012 is under challenge in OS.No.214/2013. The petitioner is not entitled to raise the same before this court. The entire property in S.No.149 measuring 0.12 cents is in absolute possession and enjoyment of the 1st

respondent till this date. The petitioner received a notice dated 25.11.2013 from the plaintiff stating that the mutual agreement between the petitioner family members and the respondent cancelled after the alleged cancellation deed executed by the petitioner's family members dated 22.7.2012 and at the time of mutual agreement the respondents received signature in various bland papers and the respondents utilized these documents, paper against the petitioner and his family members and now claim that the mutual agreement was cancelled and after knowing the plaintiffs trivial fraudulent act the petitioner gave a criminal complaint before the District Superintendent of police at Kancheepuram on 5.5.2014 in CSR No.1191/2014 and the same is pending enquiry are all absolutely false and baseless. The cause of action in respect of the suit OS.No.214/2013 is very different to the cause of action of the present suit. The suit OS.No.214/2013 was filed against the petitioner and his family members for recovery of money of a sum of Rs.15,00,000/- The parties in both the suits are not the same as claimed by the petitioner. The petitioner and his wife are parties to O.S.No.214/2013 whereas all the members of the petitioner's family are parties to the present suit. The cause of action and the relief in respect of both the suits are different and they cannot be clubbed together. This respondent is advised to state that a plaint cannot be rejected under order 2 rule 2 CPC without letting in evidence during trial. There is a valid cause of action for the present suit and the petitioner knows it very well. The plaint documents would show that the petitioner along with his family members

has signed the receipt and he agreement acknowledging the payment of Rs.15,00,000/-. The petitioner is not entitled to contest that there is o cause of action for the suit. Without letting in evidence after framing point for determination about the suit being barred under order2 Rule2 CPC the same cannot be gone into at this stage. The cause of action for both the suits are entirely different and just because the mutual agreement is a part of both the suits it cannot be said the cause of action is also the same. There are various rulings of our Hon'ble High Court and Apex Court that a plaint cannot be rejected under Order 2 Rule 2 CPC at the threshold without letting in evidence. There are absolutely no merits in the application. The similar application filed by the petitioner in the suit OS.No.214/2013 was already dismissed by the Principle District Judge, Chengalpattu. The petitioner has once again raised the same questions through the present application. There are no bonafides in the application. Hence, the petition may be dismissed with cost.

4. The point for consideration:- Upon considering the petition the following points for consideration is framed.

“Whether the petition is to be allowed as prayed for”?

5. Answer to the point:

The petitioner is the 9th defendant in the original suit. The 1st and 2nd respondents are the plaintiffs therein. The 1st and 2nd respondents filed the original suit for the recovery of a sum of Rs.19,33,808/- along with

subsequent interest. The petitioner and other defendants entered appearance. The case was posted for filing the written statement. At this stage the present petition is filed under order 7 rule 11 CPC stating that the 1st and 2nd respondents have no cause of action to file the suit and the suit is also hit by order 2 rule 2 CPC.

6. It is the submission of the petitioner that as per Clause 4 of mutual agreement dated 11.4.2012, between the petitioner and the respondents that the party of the 2nd part has given Rs.5,00,000/- as advance consideration to the party of the 1st part which amount shall be handed over to the common advocate who shall retain the same and hand it over to the party of the 1st part once all the transaction under this agreement was over. The petitioner further submits that as per the alleged cancellation deed dated 22.7.2012 in clause 5 it is stated that under the said agreement mention in para 1 we have received a sum of Rs.5,00,000/- by way of cash which shall be returned on demand by the said Mohanlal kankariya and Suresh kumar kankariya since the said agreement stand cancelled.

7. The petitioner further submitted that such being the recital, in plaint in OS.38/2015 it is alleged that Rs.15,00,000/- was received by the petitioner/defendants family members which is a false one. It is his submission that as per the agreement dated 11.4.2012 any amount received by the advocate Surana, the mediator and no cause of action arose to file this suit against the petitioner/defendants. If Rs.10,00,00/- amount was received by the family members of the petitioner on 18.4.2012, there is no

reason as to why it is not reflected in the cancellation deed dated 22.7.2012. Therefore the petitioner states that the suit is based on no cause of action.

8. The next submission of the petitioner is that the respondents filed OS.No.214/2013 against the present petitioner to cancel the sale deed dated 27.8.2012. The present suit is filed for the recovery of money on the same mutual agreement dated 11.4.2012. It is further submitted that the respondents failed to obtain leave of the court to file suit for recovery of money in the later stage under Order 2 Rule 2 CPC and thus the suit is also barred by law.

9. Per contra, the 1st and 2nd respondents filed a detailed counter wherein they are specifically stated that the entire reading of the plaint would go to show that the respondent have clearly stated about the cause of action for filing the suit. Moreover it is his submission that the cause of action for both the suit are different and just because the mutual agreement is part of both the suits it cannot be said that the cause of action for both the suit are one and the same and also the suit is hit by Order 2 Rule 2 CPC.

10. This court has considered the submissions of the respective sides. As stated supra, the petitioner files the application for rejection of plaint on 2 grounds namely, the plaint does not disclose cause of action and the suit is hit by Order 2 Rule 2 CPC. Needless to say, cause of action implies a right to suo. The word cause of action is not defined in the code of civil procedure. However in **Swamy Atmanand Vs Sri Ramakrishan Tapovanam** at para 24 it has been held that a cause of action means every facts, which it

traversad, it would be necessary for the plaintiff to prove an 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 a plaintiff a right to relief against the defendants.

11. Such being the legal position as to the law of cause of action, this court has thoroughly considered the pleadings made in the plaint. A careful perusal of the plaint averments would go to show that the respondents have stated that themselves and the defendants entered into an agreement dated 11.4.2012 and the defendants received a sum of Rs.5,00,000/- from the respondents on 18.4.2012 and also received a sum of Rs.10,00,000/- and issued a receipt. The plaintiff has also stated that the said agreement was cancelled on 22.7.2012 and the 9th defendant/petitioner executed a sale deed in favour of his wife Padmini on 27.8.2012. After the same the respondents passed legal notice demanding a sum of Rs.15,00,000/- on 11.4.2012 and the 9th defendant issued a reply. A careful analysis of plaint averments would go to show that the respondents have clearly made necessary averments for claiming the recovery of money.

12. However, the petitioner submitted that if Rs.10,00,000/- was received by the family members of the petitioner on 18.4.2012, it must have been reflected in the cancellation deed dated 22.7.2012 and therefore, the respondents have no cause of action to file the suit. It is well established principle of law the averments stated in the plaint are alone germane for deciding an application under order 7 rule 11 CPC. The defence taken by

the defendants are not relevant. Moreover, it is also to be noted that the plaint can be rejected only if the case of the plaintiff falls under any of the instances stated under order 7 rule 11 CPC. The truthfulness or falsity of a transaction can be decided only at the time of judgment after let in evidence by both parties. Therefore this court holds that the respondents have sufficient cause of action for filing the suit.

13. As stated supra, the petitioners further stated that since the cause of action to both the suits filed in OS.No.38/2015 and OS.No.214/2013 are one and the same and the present suit in OS.No 38/2025 is not filed without getting leave from the court and therefore the suit is barred by law. In **Nelson babu Vs Kamalesh babu and another 2009 5 CTC 814** at para 11 it has been stated order 7 rule 11(d) has limited application. For its applicability it must be shown that the suit is barred under law. Such a conclusion must be drawn from the averments made in the plaint. Moreover, it is further pertinent to see that in order to ascertain whether both the suits have same cause of action, the copy of the plaint filed in OS.No.214/2013 is not filed by the petitioner. Moreover in **Prince Manohar and and others Vs Bhima Lakshmi Narasammah 2014 1 CTC 160** at para 11 it has been held that the principle of Res Judicata being a mixed question of law and facts the same cannot be gone into at this stage and the same can be decided only at the time of trial. Therefore it is clear that the question of order 2 rule 2 can be decided only at the time of trial.

14. In the backdrop of above said discussion this court holds that the

petitioners have not made out any cause for rejection of plaint under order 7 rule 11 CPC. Hence, the petition shall stand dismissed.

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

Dictated to the Shorthand writer and typed by her and corrected and pronounced by me in open Court, this the 8th day of September 2025.

Additional District & Sessions Judge
Chengalpattu.

Both sides Exhibits and Witnesses: Nil

Additional District & Sessions Judge
Chengalpattu

Draft/Fair Order
I.A.No.380/2017
in
O.S.No.38/2015
Dated:08.09.2025
ADJ/CPT
