

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE
CHENGALPATTU**

Present: Thiru.P.Ramachandran, B.Sc., **B.L.**
Additional District Judge,
Chengalpattu.

Wednesday, the 29th day of July 2026

I.A.No.2/2023 in O.S.No.180/2023
CNR No: TNCG01-002311-2023

1. Mrs. Rajini

2. M/s. Ram Singh Sports Academy

LLP....Represented by its partner Mrs. Rajini

...Petitioners/Defendants

..Vs..

Mr. K.S. Sridhar

...Respondent /plaintiff

This Petition coming before this court on 22.07.2026 for final hearing in the presence of M/s.RRN Legal and N.Alagu Narayanan, counsels for the petitioners/defendants 1 and 2 and Thiru. K.Raghu Raj, counsel for the Respondent/plaintiff 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

This petition has been filed under Order 7 Rule 11 of CPC to reject the plaint filed by the plaintiff in O.S.No.180/2023 on the file of this court on the ground that the suit is Barred by Law.

2. The brief averments in the petition are as follows:-

The Petitioner is the 1st defendant and has filed the petition for herself and on behalf of 2nd petitioner/ 2nd defendant. The plaint is not maintainable, is devoid of merits,

and ought to have been returned in the first instance. The plaintiff himself disclosed about the filing of the earlier suit in O.S. No. 178 of 2015 on the file of the District Munsif Court, Chengalpattu, against the 1st defendant, seeking permanent injunction in respect of the property ad-measuring 28 cents in S. No. 409/2B, Ponmar Village, Thiruporur Taluk, based on his title derived under settlement deed in Doc. No. 540/2004 on the file of SRO, Guduvancherry. The plaintiff has now filed the present suit in respect of the very same property for the same cause of action. The present suit has been filed for the relief of (a) declaration of title over the suit property in the name of plaintiff; and (b) declaration that the sale deed dated 21.03.1996 as null and void; and (c) declaration that the sale deed dated 17.06.2019 as null and void; and (d) for permanent injunction restraining the defendants from making any further improvements or construction in the suit property. Both suits relate to the same immovable property against the same defendants, and the schedules in both suits are one and the same. The plaintiff admitted that O.S.No.178 of 2015 was dismissed for default but failed to take steps to restore the said suit and instead filed the present suit with further set of reliefs. Though the plaintiff has stated that the present suit is not barred by res judicata, he has failed to state that it arises on the same set of cause of action as to that of the earlier suit. The plaintiff's statement that "the cause of action in both suits are quite different" is false.

The present suit is barred by law as per the provisions of Order II rule 2 of the Code of Civil Procedure. The plaintiff, having filed an earlier suit for the same cause of action, ought to have sought all the reliefs in the same suit. The plaintiff cannot file multiple suits seeking multiple reliefs for the same cause of action. The plaintiff ought to have restored the earlier suit or, at least, sought leave of the court before instituting the subsequent suit. In the present case, the plaintiff has failed to do both and has merely filed a fresh suit with a different set of reliefs against the same defendants on the same cause of action.

The present suit is barred by law under the provisions of Section 11 of the Code of Civil Procedure. The plaintiff had filed an earlier suit in O.S. No. 178 of 2015, which was dismissed by the court having competent jurisdiction on 06.07.2017. The plaintiff has not taken steps to restore the suit, and the decree has attained finality. Hence, the plaintiff cannot file another suit on the same set of facts with different reliefs.

The reliefs sought by the plaintiff in Paragraph No. 22(b) and (c) i.e., declaration that the sale deed bearing Doc. No. 782/1996 dated 21.03.1996 on the file of SRO, Thiruporur, and Doc. No. 7907/2019 dated 17.06.2019 on the file of SRO, Thiruporur, are null and void are barred by the law of limitation. The plaintiff failed to seek the relief of declaration regarding Doc. No. 782/1996 as null and void in the earlier suit itself. The Doc. No. 7907/2019 is the subsequent sale deed executed by the 1st defendant in favour

of the 2nd defendant. The relief has been sought after a period of 3 years and 9 months from the date of execution of the said deed and is clearly barred by the law of limitation. Hence, the institution of the present suit is a clear case of abuse of the process of law and the same is liable to be dismissed at the preliminary stage itself. Hence the petition to reject the plaint on the ground that the suit is barred by law.

3. The brief averments in the counter filed by the Respondent/Plaintiff are as follows:-

The respondent denies all the allegations and averments stated in the affidavit and states that this application is a baseless, frivolous and vexatious one and is not based on any sound principles of law or facts.

The petition is unsustainable on the grounds, viz., that the suit is barred under the provisions of Order II Rule 2 CPC due to the previous suit in O.S.No.178/2015 and also on the ground of limitation.

The plaintiff very much admitted and effectively disclosed in the present suit about the earlier suit for injunction filed by him in O.S.No.178/2015 on the file of the Hon'ble District Munsif, Chengalpattu, and dismissal of the same for default on 06.07.2017. Further, the plaintiff also effectively disclosed the nature of the suit filed and his disabilities to continue the proceedings. However, the said suit was based on the

specific cause of action, namely, the defendants' attempts to trespass into the suit property.

After the dismissal of the suit in O.S.No.178/2015, the plaintiff had been frequently visiting the suit property and kept vigil constantly, as the entire suit property and his other properties around the same are lying vacant. However, the defendants erected a big advertisement board on the suit property during the month of May 2022, containing the name "Cross Way Springs-Atmos, Phase-II by Stones and Acres", and while probing into the said subject matter, the plaintiff found that the 1st defendant alone had started venturing into his illegal act of trespass, and the same prompted the plaintiff to file the present suit seeking the relief of declaration of title and possession of the suit property, after removing the name board erected on it together with other consequential reliefs.

Besides the same, the 1st defendant has executed a sale deed dated 17.06.2019 in Document No.7907/2019 of SRO Thiruporur in favour of the 2nd defendant, which is much later, after the dismissal of the earlier suit O.S.No.178/2015 in the year 2017. This has also created a fresh cause of action which did not arise at the time of filing the earlier suit in O.S.No.178/2015. The present suit has been filed to declare the said document as null and void.

Under the said circumstances, the defendants cannot presume that the cause of action for the suit in O.S.No.178/2015 and that of the present suit are one and the same. Further, as a matter of fact, after the dismissal of the earlier suit for injunction, if the defendant takes advantage of the same and trespasses into the suit property, it cannot be presumed that the plaintiff cannot claim possession of the property by removing the material of trespass committed by the defendant in the suit property. Hence, the cause of action referred to in the present suit was not available to the plaintiff at the time of filing the earlier suit in O.S.No.178/2015. On the other hand, the physical trespass made by the defendants by erecting the huge board and depriving the plaintiff of enjoying the suit property was made only during the month of May 2022, and hence, the plaintiff has no other option but to file the suit for possession and other consequential reliefs in the present suit.

The said suit in O.S.No.178/2015 was not decided on merits and hence, the decision in the said suit may not operate as res judicata in filing the present suit. The legal aspects of the plaint are very well explained. But, the defendants, misconceiving the subject matter of the suit and legal aspects, have taken up the subject matter under Order VII Rule 11 CPC and sought the relief of rejection of plaint.

According to the rulings of the Hon'ble High Court of Judicature at Madras as well as the Hon'ble Apex Court of India, it is made clear that in a suit for recovery of

possession, the relief of declaration becomes incidental, and such a relief of declaration would not suffer under Article 58. The limitation available for such relief is only 12 years under Article 65. The defendants, who are not aware of such upheld legal provisions, have misconceived the position of law and filed the present application for rejection of the plaint, which is not sustainable.

The defendants, who have now trespassed into the suit property, are trying to defend themselves by showing that the plaintiff does not have the right to recover the property belonging to him or get appropriate declaration of title, projecting such disabilities and trying to grab the entire suit property on technical grounds. Under the above said circumstances, the petition is liable to be dismissed.

4. The point for consideration:-

1. Whether the petition is to be allowed or not?

5. POINT:-

The petitioners/defendants 1 and 2 have filed the present petition seeking rejection of the plaint on the ground that the suit is Barred by Law.

6. According to the petitioners, the plaintiff had earlier instituted a suit in O.S. No.178 of 2015 in respect of the very same property and that the present suit, filed after the dismissal of the earlier suit for default, is barred under Order II Rule 2 CPC and Section 11 CPC.

7. Per contra, the respondent/plaintiff contended that he has specifically disclosed the institution of the earlier suit in O.S. No.178 of 2015 and its dismissal for default on 06.07.2017. The plaintiff has further pleaded that the earlier suit was one for bare injunction based upon the cause of action then existing and that, subsequently, the defendants trespassed into the suit property and erected an advertisement board during May 2022 stating that “Cross Way Springs-Atoms, Phase-II by Stones and Acres”, and that the 1st defendant had executed a sale deed dated 17.06.2019 in favour of the 2nd defendant. According to respondent/plaintiff, these subsequent events have given rise to a fresh and distinct cause of action which necessitate the plaintiff to file the present suit seeking declaration of title, recovery of possession, declaration that the sale deeds are null and void, and consequential injunction.

8. In these rival contentions, whether the cause of action in the present suit is one and the same to that of the earlier suit; and whether the subsequent events stated by the plaintiff constitute a fresh cause of action or not?, and whether the present reliefs ought to have been claimed in the earlier suit are all mixed questions of fact and law. These issues cannot be decided merely on the basis of the plaint without recording evidence. Therefore, the bar under Order II Rule 2 CPC cannot be held to be established at this preliminary stage.

9. Similarly, the plea of res judicata under Section 11 CPC is also not liable to be

accepted at this stage. It is not in dispute that the earlier suit was dismissed for default and not on merits. Whether such dismissal would operate as res judicata depends upon the nature of the earlier proceedings and the applicability of the statutory requirements under Section 11 CPC, which again requires adjudication on the basis of the records. From the plaint averments alone, it cannot be concluded that the suit is barred by res judicata.

10. The petitioners have further contended that the reliefs seeking declaration that the sale deeds dated 21.03.1996 and 17.06.2019 are null and void are barred by limitation. As far as the point of limitation is concerned, the plaintiff has stated several events and disclosed several cause of actions. The question of limitation can be reckoned only after perusing the relevant records, during trial. The question of ouster and limitation is a mixed question of law and fact and hence the suit cannot be rejected at this stage on the point of limitation. The plaintiff, has pleaded that the present suit substantially seeks declaration of title and recovery of possession consequent upon the defendants' alleged trespass in May 2022 and that the relief of declaration is incidental to the principal relief. The plaintiff has also pleaded that the subsequent sale deed executed in favour of the 2nd defendant gave rise to an independent cause of action. Whether the suit is governed by Article 58 or Article 65 of the Limitation Act and whether the reliefs sought are within the prescribed period of limitation are matters

requiring appreciation of pleadings and evidence. The question of limitation, in the facts of the present case, is not apparent on the face of the plaint and such an allegation cannot be determined without a full-fledged trial.

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

Dictated to the Shorthand writer and directly typed by her and corrected and pronounced by me in open Court, this the **29th day of July 2026.**

sd/-P.Ramachandran
Additional District Judge,
Chengalpattu.

List of exhibits and witnesses on both sides: Nil

sd/-P.Ramachandran
Additional District Judge,
Chengalpattu.

Draft/Fair Order
I. A.No.2/2023 in
O.S.No.180/2023
Dated:29.07.2026
ADJ/CPT
