IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE, DHARM

Present: Tmt.U.Monica,M.L.,
Additional District Judge,
Dharmapuri.

Saturday, this the 19th day of July 2025

I.A.No.6/2025
in
O.S.No.12/2024

P.K.Pounraj ..... Petitioner / defendant.

/versus/

V.Parvathi
(rep by power of attorney V.Sugumaran) ..... Respondent/plaintiff.

This petition is coming on 2.7.2025 for final hearing before me in presence of Thiru.I.Veerasamy, Advocates for petitioner and Thiru.A.Kannadasan, Advocate for the respondent and upon hearing both side arguments and on perusal of the entire case records and having stood over till this day, this court pronounced the following:

ORDER

This petition has been filed under Order-7, Rule-11 (a) and section 151 of CPC .

2. **The averments in the petition in brief is as follows:**

(a) The petitioner is the defendant in the above suit filed by respondents/plaintiffs for recovery of money. The petitioner is close relative of plaintiff and the power agent is none other than younger son of plaintiff. The suit schedule properties belongs to petitioner in which plaintiff and her power agent have no right to claim attachment. The petitioner did not receive any amount from deceased Vadivel. The plaintiff's elder son namely Manohar was suffering from Blood Cancer. Due to age factor of deceased Vadivel, he approached the petitioner to take care of his son and give treatment promptly and informed defendant that medical expenses can be taken care out of compensation received for acquisition of his lands. As per the direction of deceased Vadivel, the petitioner has spent money towards the medical treatment of said Manohar. Even sometimes, the petitioner had spent his own money for the medical expenses of Monohar.

(b). Further, since the younger son of plaintiff was prodigal in his expenses from the said compensation amount there arose enmity between the plaintiff and her husband deceased Vadivel. With ill intention, the power agent has cheated his father deceased Vadivel by obtaining signatures in blank stamp papers and gift deeds.

(c). The petitioner is running Granite Quarry, Transport business across Tamil Nadu and Karanataka and also he is running a 3 Star hotel, spinning mill and poultry farm, where about 700 employees are working. Apart from that, the petitioner is doing education and medical related assistance to poor. In fact, the children of plaintiff were taken care by the petitioner only for the last 25 years by providing proper medical and other necessary expenses. Even for their shelter, the petitioner has spent Rs.2,50,000/- and taken a house for lease.

(d). The lands in Pennagaram of said deceased Vadivel was acquired by

Government and awarded compensation to the tune of Rs.80,00,000/-. The power agent Sukumar has forged the signature of his father Vadivel and transferred funds to his account. After it came into light, the power agent Sukumar was directed to transfer, but Rs.40,00,000/- in deceased Vadivel's account and to transfer Rs.35,00,000/- to plaintiff's account. But, the power agent Sukumar has transferred only Rs.35,000/- and Rs.40,00,000/- to deceased Vadivel's bank account and plaintiff's bank account respectively and he transferred the rest to his wife bank account. In order to grab the compensation amount, the plaintiff and power agent has given torture to the said deceased Vadivel. Further, the power agent has forced his father to sell the properties in Dhasampatti and Pennagaram and obtained that money also, without knowledge of his siblings.

(e). In the year 2015, by taking advantage of visual and hearing impairment of his father, the power agent has forced the deceased Vadivel and executed a gift deed in favour of his son. Due to atrocities of power agent, the deceased Vadivel suggested the petitioner that he would transfer the funds from his Tamilnadu Mercantile Bank and requested the petitioner to spent the funds towards medical expenses of his elder son Manohar and to handover the remaining funds to daughter of said Monohar. When the plaintiff enquried about the same, the petitioner has given a sum of Rs.10,00,000/- as cash and issued a cheque for a sum of Rs.10,00,000/- and given Rs.2,00,000/- to power agent Sukumar by obtaining signature in a voucher for their expenses. Even the plaintiff and power agent has not turned up when the said Vadivel was in treatment, only the petitioner had spent money for his medical treatment. After the death of said Vadivel, he was buried in his old house at Pennagaram. The petitioner has spent his own money for the memorial of deceased Vadivel.

(f). After demise of said Vadivel, the petitioner has spent Rs.42,00,000/- to said Manohar for his medical and family expenses. The petitioner has given the balance amount of Rs.40,000/- to said Manohar on 09.08.2023 and has obtained the voucher. In spite of having sufficient knowledge of same, the plaintiff and power agent has filed this suit with false allegation in order to seize money of the petitioner.

(g). With the intention of tarnishing reputation of petitioner, the plaintiff and power agent colluded together and spread fake news in the social media handles with the help of media called "Angusam". The deceased Vadivel has transferred a sum of Rs.36,00,000/- and 31,00,000/- on 20.08.2016 and 18.11.2016 respectively to petitioner account through RTGS. On 06.09.2019, the petitioner has given Rs.10,00,000/- to plaintiff and power agent for their educational and family expenses. Further, the petitioner has issued a cheque for Rs.10,00,000/- dated 19.07.2022 and given cash of Rs.2,00,000/- to Sukumar and Rs.10,000/- and Rs.2,50,000/- towards lease of house and for medical expenses of Manohar, the petitioner has spent Rs.42,00,000/- and in total the petitioner has given Rs.66,60,000/-. The balance amount of Rs.40,000/- was given to Monohar on 09.08.2023. Despite the knowledge of same, the plaintiff and power agent has created false allegation about the petitioner. For which, on 09.08.2023, the petitioner has lodged a complaint and CSR was also issued and further the complaint was also escalated to Superintendent of Police, during the same, on 04.09.2023, through media called Angusam, the plaintiff and power agent have posted fake news about petitioner. By suppressing all the above facts, the plaintiff has filed this suit with false allegation. There is no prima facie in this case. The suit is liable to be dismissed in the initial stage itself.

3.**<u>The averments in the counter filed by respondent in brief is as follows:</u>**

(a) This petition is a misconceived one and devoid of merits. The property which was allotted to plaintiff's husband Vadivel vide partition deed dated 16.10.1986 was acquired by government for their project

(b). After filing of this suit, the petitioner has instigated his wife Thilagavathi and filed a suit for partition against her family members. The suit was filed for recovery of money, the one which was borrowed by petitioner from plaintiff's husband. Even after the receipt of summon, inculcated the nature and knowledge of the suit, the petitioner has not filed the written statement and did not furnish the security for the interlocatory petition under Order 35 Rule 8 filed by defendant and instead he has sold the said property. The act of petitioner is absolutely contempt of court.

(c). The petitioner has filed this present petition only after he received the summon in above I.A petition. The petitioner has filed the petition to drag the proceedings of the case. The respondent is aged about 85 years. Taking advantage of age factor of respondent, the petitioner is adopting delaying tactics. The averments mentioned in the petition with regard to treatment of Manohar based on the request of said deceased Vadivel is are false. The respondent is not depending on the compensation amount. The said compensation alone is not a property for the defendant, apart from that she is having properties in Dharmapuri and Pennagaram.

(d). Whether the petitioner borrowed money from said Vadivel or not will be come out only after the full trial. Actually, the elder son of plaintiff namely Manohar has become drug addict, by taking advantage of the same, the petitioner has concocted story and spread across vicinity that he had spent money towards said Manohar's medical treatment. Hence, the plaintiff has lodged a complaint before Superintendent of Police on 22.07.2023 and escalated the same to CM Cell and DGP. Based on the said complaint primary enquiry was conducted by Dharmapuri Town PS, the petitioner has utilized his influence and power, hence the said case was closed. The power agent is a Government Contractor and getting income from his rental properties and also taking care his mother the plaintiff in good manner. The respondent/plaintiff is also in care and custody of power agent Sukumar. The petitioner has filed a quash petition before the Hon'ble High Court of Madras in Crl.OP.No.87221/2025 to quash the case pending in C.C.No.4/2025 on the file of Judicial Magistrate No.1, Dharmapuri. Moreover, the petitioner has sold the property which is about to attach to compensate the suit amount.

(e). The petitioner has kept said Manohar in his hand and shown that accounts that he spent all the money towards Manohar's medical expenses. During the appeal pending before the Hon'ble High Court of Madras in No.652/2002 for enhancement of award, the said deceased Vadivel has executed a Will dated 22.12.2015 in favour of plaintiff. The petitioner is a court bird and he used to face many cases and even the Supreme Court of India has passed an order against him.

(f). The petition has not met any of the above grounds for rejecting the plaint under Order 7 Rule 11 of the CPC. The petitioner has filed this petition to drag the proceedings of the case. This is absolutely a dilative tactics of petitioner and the same is noting but abuse of process of law. Therefore, this petition is not maintainable and liable to be dismissed with cost.

4. In the enquiry, no witness was examined and no document was marked on either side.

5. Heard arguments of both side and perused the records.

6. **<u>The point for consideration:</u>**
Whether the petition is to be allowed or not?

7. Heard both side. No oral evidence have been adduced on either side.

8. **<u>Point:</u>**

8.1) The learned petitioner counsel argued that petitioner has not borrowed any amount from deceased Vadivel and plaintiff as alleged by plaintiff, out of Rs.67,00,000/- transferred to him by deceased Vadivel, on 06.09.2019, he gave Rs.10,00,000/- to plaintiff and power agent for educational and family expenses, he issued a cheque for Rs.10,00,000/- dated 19.07.2022 and given cash of Rs.2,00,000/- to Sukumar and Rs.10,000/- and Rs.2,50,000/- towards lease of house and for medical expenses of Manohar, the petitioner has spent Rs.42,00,000/- and Rs.40,000/- was given to Manohar on 09.08.2023, this suit has been filed to recover money from him by illegal means, there is no cause of action for this suit, suit is barred by limitation, so, suit is liable to be rejected.

8.2)The respondent resisted petition by contending that petition is not at all maintainable, the petitioner has not made out any grounds for rejection of plaint and liable to be dismissed.

8.3) This is a suit for recovery of money and case is in stage of trial. The petitioner counsel alleged that suit based upon time barred debt is barred by limitation. Admittedly petitioner has not taken this ground in the petition. It is defence of petitioner that respondent's husband transferred Rs.67,00,000/- in his account, but alleges that he has paid it back on 06.09.2019, the petitioner has given Rs.10,00,000/- to plaintiff and power agent for their educational and family expenses, issued a cheque for Rs.10,00,000/- dated 19.07.2022 and given cash of Rs.2,00,000/- to Sukumar and Rs.10,000/- and Rs.2,50,000/- towards lease of house and for medical expenses of Manohar, the petitioner has spent Rs.42,00,000/- and Rs.40,000/- was given to Manohar on 09.08.2023. Therefore petitioner has paid amount on many occasions. The petitioner has admitted issuance of cheque. When there is a contract to repay the time barred debt, it is legally valid u/s 25 of the Indian Contract Act. This court is of view whether issuance of cheque on 19.07.2022 and alleged payments made by petitioner would save limitation cannot be decided in this petition and same can be decided only during trial where parties will lead evidence.

8.4) It is settled law that while deciding an application under Order VII Rule 11 of C.P.C. seeking for rejection of plaint, the Court must only look at the facts and averments made in the plaint. The pleas taken by the defendants are irrelevant and not material. It is also well established law that the Court does not have to see whether the claim made by the plaintiff is likely to succeed but it has merely to satisfy itself that the allegations made in the plaint, if accepted as true, would entitle the plaintiff to the relief he claims. In ascertaining whether the plaint shows a cause of action, the court does not enter upon a trial of the issues affecting the merits of the claim made by the plaintiff. The Court should not and cannot take into consideration the defenses which the defendant may raise upon the merits; nor is the court competent to make an elaborate inquiry into doubtful or complicated questions of law or fact for rejection of the plaint.

8.5) There are triable issues involved in this case. Rejection of plaint takes away the very basis of the suit rendering as if there was no suit at all or that no suit was instituted. Order of dismissal of suit while recognizing the existence of a suit indicates its termination. Consequently on the grounds as raised by the petitioner/defendant, the plaint cannot be rejected in the present facts and circumstances. The respondent/plaintiff has to be given an opportunity to prove the case and suit cannot be rejected at this stage. Hence point for consideration is answered against petitioner.

In the result, the petition is dismissed. Both the parties are directed to bear their own costs.

Dictated by me, typed by the Steno-typist, corrected and pronounced by me in Open Court on this the 19th day of July 2025

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Additional District Judge,
Dharmapuri.

Petitioner Side witness, Exhibits: Nil
Respondent Side witness, Exhibits: Nil

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Additional District Judge,
Dharmapuri.

Fair Order
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O.S.No.12/2024
Dated:19.7.2025.