

**IN THE COURT OF THE SUBORDINATE JUDGE, SATHYAMANGALAM.**

**PRESENT: Tmt.K.S.Shabeena, B.A., B.L.**  
Subordinate Judge, Sathyamangalam.

Thursday, the 30<sup>th</sup> day of October 2025  
(2056 Thiruvalluvarandu Visuvavasu varudam Aypasi Thingal 13<sup>th</sup> day)

**I.A.No.1/2023**

**in**

**OS.No.38 of 2022**

1. Murugesan
2. Magesh
3. Gopalakrishnan

.... Petitioners/Defendants

Vs

1. Loganathan
2. Gomathi

..... Respondents/Plaintiffs

This petition was came up for final hearing before me on 30.10.2025 in the presence of Thiru.C.M.Shanmugam, Advocate for the Petitioner and Thiru.K.Thangarajan, Advocate for the Respondents and upon perusing the entire case records, on hearing the arguments of both sides, and having stood over for consideration till this date, this court delivered the following:

**ORDER**

Petition filed under under Order VII Rule 11 of the Code of Civil Procedure, praying to Reject the Plaint.

## **2. GIST OF THE PETITION**

2.1. The petitioners, who are defendants in the suit, have filed this petition under Order VII Rule 11 of the Code of Civil Procedure seeking rejection of the plaint. Their principal contention is that the suit is barred by law, particularly by the doctrine of estoppel under Section 115 of the Indian Evidence Act, 1872.

2.3. According to the petitioners, they and the plaintiff had earlier executed a mortgage deed in favour of one Subramani and the first respondent for a loan of ₹3,20,000/-. After the death of Subramani, when the petitioners offered to repay the loan, the plaintiff agreed, but the fourth defendant refused, leading to the filing of O.S. No. 31 of 2019 before the Sub Court, Sathyamangalam.

2.3. In that suit, the petitioners submit that both they and the plaintiff had taken a uniform stand that the mortgage was executed only as a security for the loan. The plaintiff purportedly adopted the written statement of the petitioners. The said suit ended in a decree against the petitioners and the plaintiff.

2.4. The petitioners now contend that the plaintiff has instituted the present suit contrary to the stand taken in the earlier proceedings, and such inconsistent pleadings are barred by estoppel. It is therefore urged that the plaint is liable to be rejected as not maintainable.

## **3. GIST OF THE COUNTER STATEMENT**

3.1. The plaintiff, in his counter, denies the allegations raised in the petition. He

asserts that the claim that he adopted the petitioners' written statement in O.S. No. 31 of 2019 is false. He submits that the Court in the earlier suit had already held that the suit property stood mortgaged in favour of Subramani and that after his death, the plaintiff and his sister became entitled to the same by succession. The petitioners were directed to execute the mortgage deed in favour of the plaintiff's sister, failing which the decree could be enforced through Court process.

3.2. The plaintiff contends that the present suit has been instituted only to enforce his rightful share in the suit property as a legal heir. He further contends that Section 115 of the Evidence Act has no application, since no representation or conduct on his part caused the petitioners to alter their position.

3.3. The plaintiff asserts that the decree in O.S. No. 31 of 2019 stands unchallenged and continues to bind the parties. Therefore, the present petition under Order VII Rule 11 is an attempt to indirectly challenge the earlier decree and is liable to be dismissed.

#### **4. DISCUSSION AND FINDINGS**

4.1. I have carefully examined the pleadings, the submissions of both parties, and the records of the suit. The scope of Order VII Rule 11 CPC is well defined. The Court must consider only the averments in the plaint for determining whether the suit is barred by any law or fails to disclose a cause of action. Defences put forth by the defendants cannot be relied upon at this stage.

4.2. A meaningful reading of the plaint reveals that the plaintiff has founded his claim on his succession rights and on the decree passed in O.S. No. 31 of 2019. The plaint clearly sets out the nature of the plaintiff's right in the suit property, the refusal of the defendants to recognise the same, and the relief sought to secure such rights. Thus, the plaint discloses a prima facie cause of action.

4.3. Coming to the plea of estoppel under Section 115 of the Evidence Act, it is evident that the same involves mixed questions of fact and law, requiring evidence to determine whether the plaintiff made any representation which induced the petitioners to alter their position. Such an adjudication cannot be undertaken at the stage of an Order VII Rule 11 inquiry. The bar of estoppel is not apparent on the face of the plaint, and therefore cannot justify rejection of the plaint.

4.4. Furthermore, the decree passed in O.S. No. 31 of 2019 has not been challenged by the petitioners. The present suit has been instituted by the plaintiff to enforce rights flowing from the said decree. The petitioners cannot use the present petition as a device to reopen findings rendered in the earlier proceedings.

4.5. The plaint, therefore, cannot be said to be barred by any law including Section 115 of the Evidence Act, nor can it be said that it fails to disclose a cause of action. The grounds urged by the petitioners pertain to matters which may arise for determination during trial, but do not constitute grounds for rejection of the plaint at the threshold.

## **5. RESULT**

In the result, The petition filed under **Order VII Rule 11 CPC** seeking rejection of the plaint is **dismissed**. No order as to costs.

Dictated by me to the Steno typist, typed by her in the Computer directly, corrected and pronounced by me in open court on this the 30<sup>th</sup> day of October 2025.

Subordinate Judge,  
Sathyamangalam.

**Petitioner's side witnesses and documents:** Nil

**Respondent's side witnesses documents:-** Nil

Subordinate Judge,  
Sathyamangalam.