

**IN THE COURT OF ADDITIONAL DISTRICT JUDGE, KRISHNAGIRI**

Present: Thiru.V. Damodaran, B.L.M.,M.L.,

Additional District Judge, Krishnagiri  
Thursday, the 19th day of February 2026

**I.A.No.11/2025 in OS.No.34/2021**  
**CNR .NO.TNKI01-000458-2021**

G.Munisamy

....Petitioner/14th Defendant

**/Versus/**

P.Samuvel & 15 others

....Respondent/Plaintiff/Defendants 1 to 13 and 15 & 16

This petition was coming up before me finally on 09.02.2026 in the presence of Thiru. K.Sudesh, Advocate appearing for the Petitioner, and Thiru. T.Anbazhagan, Advocate for appearing for the 1st Respondent, and other Respondents set exparte, and upon hearing the arguments of Petitioner and Respondent side and on perusal of available records, and having stood over for consideration till date, this Court deliver the following:-

**ORDER**

Petition filed under Order 7 Rule 11 of CPC to reject the plaint.

**2] The contents of affidavit filed in the support of petition is as follows:-**

The petitioner is the 14th defendant in the suit the 1st respondent herein is the plaintiff in the above suit and respondents 2 to 15 are the defendants 1 to 13 and 15 & 16 in the above said suit. The 1st respondent filed the above said suit for partition,

separate possession and some other relief based on the false and concocted allegations and this petitioner/14th defendant filed a detailed written statement by setting out the true facts. This petitioner states that, he has purchased the suit property from the 9th defendant through registered Sale Deed vide Doc.No.2913/2021, who got the rights over the suit property after the demise of his mother Chennammal who got the suit by way of registered Sale Deed vide Doc.No.1738/1973 dated on 10.08.1973 executed by the father of plaintiff and defendants 1 to 8 namely Mookan @ Perumal along with his mother Unnamalai Ammal.

The petitioner/14th defendant further states that, this plaintiff was not born during the time of execution of the above mentioned Sale Deed and the said Sale Deed was executed by the father of plaintiff along with his mother Unnamalai Ammal and it was registered ten years prior to the birth of this 1st respondent/plaintiff herein, so it is clear that the 1st respondent/plaintiff has no knowledge about the execution of Sale Deed. The petitioner further submits that, a panchayat has been convened before the village members and the plaintiff and the defendants 1 to 8 accepted their flaws before the village members and were agreed to withdraw the present suit by entering into a Compromise Deed on 13.04.2022 and the said 1st respondent/plaintiff and the defendants 1 to 8 received a sum of Rs.3,45,000/- by making endorsement in the said Compromise Deed and the defendants 1 to 8 were silent from the starting of the suit. So in the above

circumstances it is very clear that the 1st respondent/plaintiff with ulterior motive to grab the suit mentioned property filed the present suit with false and concocted allegations.

The petitioner/14th defendant further submits that, the husband of 3rd respondent purchased a property comprised in Sy.No.22/2 measuring for an extent of 1.00 Acre Vide Doc.No.1552/1999 dated on 22.10.1999 before the Joint-I SRO, Krishnagiri from one Chennammal who is the mother of 9th defendant herein and the 1st respondent/plaintiff filed the present suit by burking the above fact and also the suit is bad for non joinder of necessary parties. And in the above mentioned Sale Deed, the father of plaintiff and the defendants 1 to 8 made put up his signature as witness, so it is very crystal clear that, the father of plaintiff and defendant 1 to 8 is in very good sound of mind. So in the above circumstances it is very clear that the 1st respondent/plaintiff through the 3rd respondent/2nd defendant already got knowledge about the Sale Deed executed by his father Mookan @ Perumal in favour one Chennammal who is the mother of the 9th defendant herein.

The petitioner/14th defendant further submits that, the 1st respondent/plaintiff was born during the year 1984 and attained majority in the year 2002, so even if the facts as stated by the 1st respondent/plaintiff in Para No.5 and 6 were true, he has rights to sue within three years of attaining majority that is within the year of 2005, this 1st respondent/plaintiff deserves his rights to challenge the Sale Deed executed by his father and his grand mother, within the 3 years attaining majority and he fails

to do so. So in the above circumstances this petitioner states that the respondent/plaintiff with the intention to get unlawful gain filed the present suit with false and concocted allegation after lapse of 19 years of attaining his majority, which is barred by the Limitation Act and the 1st respondent/plaintiff to avoid the limitation filed the present suit by stating that he got knowledge of the above said Sale Deed during the month of December 2020 which is false and invented only to attract the Limitation Act.

The petitioner states that, the suit is clearly barred by the Limitation Act and the 1st respondent/plaintiff cleverly attempted to over come the limitation by seeking partition instead of questioning about the Sale Deed Vide Doc.No.1738/1973 dated on 10.08.1973. At present the value of suit property is so high, so to get unlawful gain, the 1st respondent/plaintiff filed this suit. The 1st respondent/plaintiff in order to avoid limitation and by clever drafting of plaint, after 19 years, came forward with suit seeking partition and the defendants 1 to 8 were being silent from the time of institution of present suit and the suit is completely barred by the Law of Limitation and the cause of action alleged in plaint is purely vexatious. Hence, prayed for reject the plaint and allowing the application.

**3] The respondent filed counter is as follows:-**

The respondent filed counter stating that, the petition is not maintainable either in law or on facts and it is liable to be dismissed with cost. This respondent does not admit any of the allegations made in the petition except those that are specifically

admitted herein. This respondent/plaintiff deny all the allegations made by the petitioner/14th defendant in the affidavit filed by the petitioner. This respondent/plaintiff deny the averments stated in the affidavit filed by the petitioner/14th defendant. The petitioner/14th defendant simply stated the reason to reject the plaint is not correct. The petitioner/14th defendant know the suit stages and it has posted for special list and left it, exparte and after long gap, the petition filed the petition to reject the plaint. The suit was filed and summons was served upon the defendants in the year 2021. After long time, the petitioner filed this petition as vexatious and not allowed to consume the time of the court. At this stage, question of law alone can be tried as preliminary issue, both question of law and fact cannot be tried as preliminary issue. There is no concrete reason to allow this petition. If this petition is allowed, it will be prejudicial to the interest of the 1st respondent/plaintiff. Hence, prayed for dismissal of the application.

**4] Point for consideration:**

1. Whether the petition filed by the petitioners u/o 7 Rule 11 of CPC has to be allowed or not?

**Point:**

5] Heard both sides.

6] The learned counsel for the petitioner counsel was heard. Since, inspite of opportunity given to the 1st respondent, the 1st respondent did not come forward to argued the matter as such, the counter was perused and orders was passed in this

regard.

7] It is contented by the learned counsel for the petitioner/plaintiff that the petitioner/14th defendant was not born in the year 1973 when the registered Sale Deed dated 10.08.1973 was executed by the father of plaintiff and defendants 1 to 8 namely Mookan @ Perumal along with his mother Unnamalai Ammal while being so the respondent/plaintiff alleges he came to know about the said Sale Deed only in December 2022.

8] The learned counsel for the petitioner/14th defendant argued before the court, even before the said fact is known to the respondent/plaintiff but, the plaint was cleverly drafted as if valid of the Sale Deed came to the knowledge of the respondent/plaintiff only December 2022. It is important to note that, while deciding the application under Order 7 Rule 11 of CPC, the plaint averments alone has to be taken into consideration the defence taken by the defendant that, even before December 2022 the respondent/plaintiff has knowledge about the Sale Deed dated 10.08.1973 has to be established only by way of letting clear evidence. On a plain reading of the plaint, the knowledge of the petitioner respondent/plaintiff about the Sale Deed dated 10.08.1973 was came to the knowledge only in December 2022 as such, the said fact alone has to be taken into consideration whatever defence the petitioner/defendant want to put forth be made at the time of trial of the case and this fact canvassed by the learned counsel for the petitioner has no force in it.

9] Further the learned counsel for the petitioner/14th defendant argued

before the court that the application under Order 7 Rule 11 of CPC can be filed at any stage of the case and submitted the Judgement reported in AIR 2003 Supreme Court page.759 Saleem Bai and Others Vs state of Maharashtra and Others in which, it has been held that, "a perusal of Order VII Rule 11 of CPC make it clear that the relevant facts which is need to be looked into for deciding an application thereunder are the averments in the plaint. The trial court can exercise the power and Order VII Rule 11 of CPC at any stage of the suit - before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial".

10] So, before conclusion of trial, an application Order 7 Rule 11 is can be filed and it is still the petition can be filed at any point of time even before the conclusion of the trial, as such, this application was filed when the case was listed before the court as special list, will not bar the petitioner/14th defendant to file the application. And this aspect the court of the view at any point of time before conclusion of the trial the application is maintainable as such, the petition is maintainable before the court of law.

11] Coming to the question of the limitation aspect is concerned whether the respondent/plaintiff has got knowledge about the Sale Deed dated 10.08.1979 before December 2020 can be decided only at the time of trial and these facts was came to the knowledge of the respondent/plaintiff before December 2020 was nowhere stated in the plaint as such, this court of the view that, the question of limitation is a mixed question of fact and law it can be decided only at the time of trial not at the time of

enquiry. Accordingly, this court sees no merit in the application. Accordingly, this petition is dismissed.

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

Dictated to the Stenographer, directly typed by her, corrected and pronounced by me in the open court today this the 19th day of February 2026.

Additional District Judge,  
Krishnagiri.

**Annexure:** Nil

Additional District Judge,  
Krishnagiri.