

**IN THE COURT OF THE PRINCIPAL DISTRICT MUNSIF,
NAGERCOIL.**

Present : Tmt. M.Alima, B.A., L.L.M.,

Principal District Munsif, Nagercoil

Wednesday, on the 16th day of April, 2025.

I.A. Nos. 4 of 2024 in O.S. No. 93 of 2023

T. Murugan

... Petitioner/Defendant

-vs-

M. Rajesh

... .. Respondent /Plaintiff

This petition came before me on 09.04.2025 for a final hearing in the presence of Thiru. M. Timitilal, Advocate for the Petitioner / defendant and Thiru. C. Azhakesan, Advocate for the Respondent / Plaintiff and upon hearing both sides and upon perusing the case records and having stood over for consideration, till this day, this Court delivers the following:

ORDER

The petitioners have filed the above petition under Order VII Rule 11 and Section 151 of the Code of Civil Procedure, seeking to reject the plaint.

2) Gist of Averments in the Petitioner Petition:

The petitioner is the defendant in the suit. The plaint schedule property and the other portions thereto consists of 1.250 cents Natham land in R.S.No.Q1/88 in Nagecoil North Village originally owned by

respondent/plaintiff's grandfather late. Thangappan. The abovesaid property is situated on the adjacent to and east of defendant's property in R.S.No.Q1/88. The sons of late. Thangappan namely T. Rajan, T. Murugan, T. Krishnan and T. Maharajan sold away their respective properties. The petitioner/defendant and his wife Rajeswari purchased all the 4 shares from the said persons and their purchasers. Hence the petitioner/defendant and his wife are absolute owners in possession and enjoyment. On 30.05.2023, the respondent / plaintiff and his rowdy elements obstructed the work executed by the petitioner / defendant in the plaint schedule property demanded money and intimated the petitioner / defendant. This matter was reported before the Kottar Police Station. Knowing the pendency of the complaint against the respondent / plaintiff, he submitted a complaint against the petitioner / defendant in the same police station. Later the respondent / plaintiff filed a FIR Direction before Judicial Magistrate No.II, Nagercoil seeking direction against the petitioner / defendant wherein he stated that the petitioner / defendant damaged his property for a value of Rs.2,50,000/-. Further the respondent / plaintiff stated in the plaint that he purchased the plaint schedule property i.e., 136 sq.ft eventhough false for the sum of Rs.3,50,000/-. The settled law is that a person cannot seek injunction against the true owner of the property. As the petitioner / defendant and his wife Rajeswari are the owners of the property, the respondent / plaintiff has no right to file the suit for Permanent Injunction against the petitioner / defendant without the prayer of

declaration of title. Again the respondent / plaintiff suppressed the material fact eventhough that is false but pleaded before the police and Judicial Magistrate No.II damages is Rs.2,50,000/- but in order to file a suit before this court, he mentioned the value for damages as Rs.50,000/-. Truly the respondent / plaintiff disturbed the maintenance work of the petitioner / defendant on 30.05.2023 at 9.00 A.M. for that a police complaint was submitted by the petitioner / defendant but the respondent / defendant, in order to escape for the clutches of law, suppressed the true things and imaginarily manufactured and submitted a petition before the Kottar Police on that basis he invented the cause of action and filed this suit. However on through enquiry the Kottar Police closed the complaint of respondent / plaintiff and registered a case against the respondent / plaintiff in crime No.359/2023 u/s.447, 294(b), 323, 506(i) IPC. Under these circumstances stated above the respondent / plaintiff has no cause of action to file this suit, the 'B' relief claimed is under-valued and insufficiently stamped, 'A' relief is barred by law. Therefore the plaint should be rejected forthwith otherwise the petitioner / defendant might put into loss and untold sufferings. Hence, this petition is to be allowed.

3) Gist of the Averments in the Respondent / Plaintiff Counter:

The Respondent / Plaintiff had filed a counter stating that the petition except those that are hereinafter specifically admitted or otherwise dealt with

shall be deemed to have been denied. The plaint schedule property and other adjacent properties in Re.Sy.No.Q1/88 of Nagercoil North Village having an extent of 1.250 cents of property with building originally belonged to one Thankappan, who is the grandfather of the plaintiff. The said Thankappan had four sons namely T. Rajan, T. Murugan, T. Krishnan and T. Maharajan. On 08.12.2006, the said Thankappan executed a settlement in favour of his four sons by dividing the whole property into square feet each for his four sons. After that the four sons of the said Thankappan were in possession and enjoyment over their respective share of 136 sq.ft. without any hindrance. On 08.09.2010, T. Rajan, one of the sons of Thankappan sold his share (southern portion) to his brother T. Krishnan. Subsequently the said T. Krishnan sold the said share purchased by him to his brother T. Murugan i.e. the father of the plaintiff on 18.08.2014. As such the father of the plaintiff got 2 shares, one is his own and another one he got from the said Krishnan. On 13.02.2021, the father of the plaintiff executed a settlement deed in favour of the plaintiff in respect of the above said shares. Subsequently on 06.10.2020, the above said T. Krishnan sold his own share of 136 square feet of share i.e. the plaint schedule property allotted by his father Thankappan to the plaintiff for a valid consideration. Now the plaintiff is the owner of the 3 shares (408 sq.ft) of the above said properties and he is in exclusive possession and enjoyment of the property. The plaintiff has valid title over the property and he is paying

Municipal Tax, Electricity Bill and Water supply to the Government. The defendant's wife Rajeswari owned southern portion of the property adjacent to the plaint schedule property vide an unregistered sale deed executed by T. Maharajan in favour of defendant's wife on 20.10.2016. The plaintiff came to know about said sale deed after filing of the counter by the defendant. The defendant has no right over the plaint schedule property. The said unregistered sale agreement dated 29.09.2016 and Sale deed dated 30.10.2017 filed by the defendant are fraudulent documents. The defendant and his wife fabricated the documents by putting the plaintiff father's signature and contents in the documents are handwritten and clumsy in nature. The sale deed was written in a twenty rupees non judicial stamp paper and the buyer's signature is not found in the document. The description and the details of the property was not mentioned in the sale deed and the sale agreement. The said documents itself shows it was fabricated one. As such the defendant and his wife has no right over the property as stated in the petition. The property bequeathed in the name of the defendant's wife alone she is in possession and the defendant demolished the building in that property for new construction. The defendant purposely damaged the eastern partition of the house of the plaintiff in absence of the plaintiff. Further, on 30.05.2023, the defendant illegally entered into the plaint schedule property and tried to damage the gate available in the plaint schedule property and it was thwarted by the timely intervention of the plaintiff.

Subsequently, the plaintiff presented a complaint before the Kottar Police station on 01.06.2023 and it was ended in vain by the tactics of the defendant. The police complaint filed by the defendant dated 30.05.2023, is also a fabricated one. That the defendant after receiving the notice for his appearance from this court in the above case preferred a false complaint against this plaintiff on 17.06.2023. The plaintiff properly valued the reliefs sought against the defendant and sufficient court fee was paid by him for valuation stated in the plaint. The plaintiff has produced sufficient records viz. revenue records and title deed to show his title and possession and now the petitioner is bound to disprove the title of the respondent. All the averments in the plaint may be read as part and parcel of this counter. The petition is not maintainable in law and on facts. The petition is liable to be dismissed. Hence this petition is to be dismissed with cost.

4) The point for consideration is whether the above petition has to be allowed or not.

5) Point:

Respondent side enquiry heard, Since the Petitioner did not appear for enquiry despite being given sufficient opportunity, the Petitioner enquiry has been closed by this court on 09.04.2025. No documents were marked.

6) The original suit was filed by the Respondent for permanent injunction restraining the defendant from disturbing the peaceful possession and enjoyment of the plaintiff over the plaint schedule property in any manner and directing the defendant to pay a compensation of Rs.50,000/- for the damage caused to the plaintiff and cost of the suit.

7) Admittedly, the petition schedule property and other adjacent properties in Re.Sy.No.Q1/88 of Nagercoil North Village having an extent of 1.250 cents of property with building originally belonged to one Mr. Thankappan, who is the Respondent's grandfather. The said Thankappan had four sons namely T. Rajan, T. Murugan, T. Krishnan and T. Maharajan. The said property of 1.250 cents were divided into four and the northern portion of 136 sq. feet was allotted to T. Maharajan, next portion of 136 sq.feet. allotted to T. Krishnan, next to that of 136 sq. feet allotted to T. Murugan and the southern plot was allotted to T. Rajan. Thangappan's elderest son T. Rajan, sold his share to T. Krishnan. Subsequently, the said T. Krishnan sold the share he purchased from T. Rajan to his brother T. Murugan.

8) The main contention of the respondent is that the defendant's wife Rajeswari owned southern portion of the property adjacent to the plaint schedule property vide an unregistered sale deed executed by T. Maharajan in favour of defendant's wife on 20.10.2016. The plaintiff came to know about said sale deed

after filing of the counter by the defendant. The defendant has no right over the plaint schedule property. The said unregistered sale agreement dated 29.09.2016 and Sale deed dated 30.10.2017 filed by the defendant are fraudulent documents. The defendant and his wife fabricated the documents by putting the plaintiff father's signature and contents in the documents are handwritten and clumsy in nature. The sale deed was written in a twenty rupees non judicial stamp paper and the buyer's signature is not found in the document. The description and the details of the property was not mentioned in the sale deed and the sale agreement. The said documents itself shows it was fabricated one. As such the defendant and his wife has no right over the property as stated in the petition. The property bequeathed in the name of the defendant's wife alone she is in possession and the defendant demolished the building in that property for new construction. The defendant purposely damaged the eastern partition of the house of the plaintiff in absence of the plaintiff. Further, on 30.05.2023, the defendant illegally entered into the plaint schedule property and tried to damage the gate available in the plaint schedule property and it was thwarted by the timely intervention of the plaintiff. That the defendant after receiving the notice for his appearance from this court a false complaint against this plaintiff on 17.06.2023. The plaintiff property valued the reliefs sought against the defendant and sufficient court fee was paid by him for valuation stated in the plaint. The plaintiff has produced sufficient records viz. revenue records and

title deed to show his title and possession and now the petitioner is bound to disprove the title of the respondent. All the averments in the plaint may be read as part and parcel of this counter. The petition is not maintainable in law and on facts. The petition is liable to be dismissed. Hence this petition is to be dismissed with cost. On perusal of the plaint it is clear that the plaintiff filed the above suit against the defendant for the relief of permanent injunction and compensation of Rs.50,000/-. As per the prayer and fact of the plaint and if it is necessary it is duty of the petitioner to prove his contention at the time of trial and not in this petition.

9) After the completion of the trial, this court will decide:

- i) Whether Thenkarai Maharajan sold the property to the petitioner on 17.06.2015?
- ii) Whether on 30.10.2017, T. Murugan executed a sale deed in favour of the petitioner's wife Rajeswari after receiving full payment?
- iii) Whether T. Krishnan, Thenkarai Maharajan and T. Murugan are necessary parties in this suit?
- iv) Whether the petitioner and his wife Rajeswari are the absolute owners in possession of the entire 1.250 cents of property in R.S.No.Q1/88?

- v) Whether on 08.12.2006, Thankappan executed a settlement in favor of his four sons?
- vi) Whether on 06.10.2020, T. Krishnan sold his property share of 136 square feet (allotted by his father Thankappan as per settlement) to the respondent for valid consideration?
- vii) Whether T. Murugan also transferred his rights over the adjacent properties to the respondent on 13.02.2021 under a settlement?
- viii) Whether the respondent was in absolute possession and enjoyment of the petition schedule property as well as the other properties?
- ix) Whether the petitioner/defendant purposely damaged the eastern portion of respondent's house during the respondent's absence?
- x) Whether the unregistered sale agreement dated 29.09.2016 and Sale deed dated 30.10.2017 were fabricated by the defendant and his wife by forging the plaintiff's father's signature, and whether the contents in the documents are handwritten and clumsy in nature?

10) The suit is in its preliminary stages. The petitioner and respondent have the option of proving their case at the time of evidence.

11) Further, when an application under Order 7 Rule 11 CPC is filed, the court has to examine the plaint pleadings but need not consider the documents filed along with the plaint. Hence, the petitioner cannot get any relief on the grounds in this petition.

12) According to the petitioner/defendant, the respondent/plaintiff claimed permanent injunction without seeking relief of declaration of his title to the suit property. According to the petitioner, there is no cause of action for the suit. But according to Order 7 Rule 11(1), the plaint is liable to be rejected if it does not disclose a cause of action, and a complete reading of this plaint discloses a cause of action, namely that the defendant has threatened to interfere with the plaintiff's peaceful possession and enjoyment of the suit property. Whether the plaintiff is entitled to Permanent Injunction without seeking the relief of declaration cannot be decided under Order 7 Rule 11 of CPC.

13) Further, the plaint can be rejected only on the ground of non-disclosure of cause of action but it cannot be rejected on the ground of no cause of action. Whether the cause of action is true or not can be decided only after

evidence. Hence, on this ground also, the petitioner/defendant is not entitled to get any relief in this petition. The petitioner/defendant has not made any ground for rejection of plaint and the one alleged is incorrect.

14) Further more, the respondent/plaintiff has properly valued the reliefs sought in the suit and paid adequate court fee. The respondent/plaintiff has filed this suit seeking permanent injunction which is not prohibited by law.

15) The aforesaid discussion clearly shows that the contentions of petitioners do not come under the grounds of Order VII Rule 11 CPC. Hence, this court is of the considered view that the petition seeking rejection of plaint deserves to be dismissed.

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

Dictated to the Steno-Typist, and typed by her directly in the Computer, corrected and pronounced by me, in open court this, the 16th day of April 2025.

Principal District Munsif
Nagercoil

Petitioners side witnesses and documents : Nil.

Respondent side witnesses and documents : Nil.

Principal District Munsif
Nagercoil.

Fair/ Draft Order
I.A.No.4 of 2024 in
O.S.No.93 of 2023
Date: 16.04.2025.
PDM, Nagercoil.