

**IN THE COURT OF THE DISTRICT MUNSIF,  
ERANIEL.**

**Present: Thiru. S. Jothi Kailash, B.A., B.L.,  
District Munsif, Eraniel.**

**Tuesday, the 23<sup>rd</sup> day of September 2025.**

**I.A.No.27/2025**

**in**

**O.S.No.34/2023**

N.Neelajanagadhas

... Petitioner/1st defendant

**Vs.**

1. Balachandran
2. Chellankumar
3. Abinesh
4. SubRegistrar, Colachel
5. VAO, Reethapuram
6. Thashildar, Kalkulam Taluk
7. District Collector

... Respondents/ Plaintiffs

This petition is coming before me for final hearing in the presence of Neelajanagadhas, Party in person for the Petitioner/ 1<sup>st</sup> defendant, Mr.Thenkarai Maharajan, learned counsel for the 1<sup>st</sup> and 2<sup>nd</sup> Respondents, Mr.A. Vimalan, learned counsel for the 3<sup>rd</sup> respondent, Government Pleader for the 4<sup>th</sup> to 7<sup>th</sup> respondents , on perusal of the records stood over for consideration till this day, this court passed the following:-

**ORDER**

**1.** This Petition filed under Order VII Rule 11 (a),(c),(d) of C.P.C., seeking an order to reject the Plaint.

2. The Petitioner/ 1<sup>st</sup> defendant has filed this petition with the support of an affidavit stating that the plaintiff has mentioned the wrong age and the petitioner has failed to include the name of the 1<sup>st</sup> plaintiff in IA.No. 23/2024 which implead to suggest that the 1<sup>st</sup> plaintiff has remove himself from the suit. The Plaintiff in his plaint has mentioned the extend of survey Numbers 311/12 and 351/14 but has failed to mention the identity and description of the property. The plaintiff should have included the Plaint A schedule property as the property measuring 28.5 cents in Old Survey No. 8204, New Survey No 311/12A and could not include the property in Old Survey No. 8205, New Survey No 311/12B which belongs to the 1<sup>st</sup> defendant and the same was explained in IA.No. 9/2024. The property mentioned with Old Survey numbers in the decree in OS.No. 28/1954, but the plaintiff has not mentioned the Old Survey Number in the plaint averments, the court can decide this suit only if the plaintiff has mentioned the Co-relation of the old and new Survey number of the plaint schedule property. The plaintiff has suppressed the original facts to steal the properties are 1,2 defendants. Hence, for that reason the plaint has to be rejected. The plaintiff file a suit against the defendant must believe that the defendant's action have caused harm or violated the legal right of the plaintiff. But, the plaintiff who said to have been suffered by the registration of the alleged documents in the plaint has failed to mention the property mentioned in the disputed documents. Further the petitioner has

stated that the suit is barred by Resjudicata and the suit is also barred by limitation as it was filed after 46 years from the date of the compromise decree in OS.No. 28/1954. Further, the petitioner has mention various facts to reject the plaint on ground that plaint has no cause of action, barred by law, the relief claimed is not properly valued.

3. The respondents/ 1,2 Plaintiffs has filed counter stating that the petitioner has filing this petition only to prolong the case the plaintiff has filed this suit as the 1<sup>st</sup> defendant / Petitioner has after selling the property allotted to his share has transferred the property in favour of the 2<sup>nd</sup> defendant along with the share of the other share holders for which have no rights and the suit is filed to declare the said documents as null and void. The plaintiff is ready to proceed with the trial to prove his case, but this defendant has filing a consecutive petitions to prevent the plaintiff to proceed with the trial. Hence, prays for dismissal of this petition.

#### **4. Point for consideration :**

The point for consideration is whether the Plaint has to be rejected or not?

4.1) This petition has been filed to reject the plaint for the reasons that the plaint does not disclose any cause of action, that the relief claimed is under valued and that the suit is barred by law. It is settled law that in order to decide a petition under order 7 rule 11 only the plaint averments and the documents filed along with the plaint shall be taken into

consideration and nothing else to be considered. On perusal of the plaint, this court can see that the plaintiff has filed suit for following reliefs:

- a) a decree for cancellation of the settlement deed in document no. 1121/2021,
- b) permanent injunction, against the defendants, not to obstruct the plaintiff's possession in the plaint schedule property and
- c) to rectify the revenue records with regard to the plaint schedule property

**4.2)** It is settled principle that when the plaintiff states various facts and circumstances which are material for filing the suit and claims that those are the cause of action it is enough to hold that the plaint discloses the cause of action. In the case on hand the cause of action was based mainly on the settlement deed in document number 1121/2021. It is also well settled principle that, a plea that there was no cause of action for the suit is different from plea that the plaint does not disclose a cause of action and if a plaint discloses a cause of action even in part it can not be rejected. Keeping the above principle on mind and considering the facts and circumstances of the case this court decides that there is cause of action for trying this suit. Further, the petitioner has stated that the plaintiff has suppressed the facts which are essential for deciding the suit. But, has failed to substantiate his plea moreover this court is of opinion that rejection of plaint is an extraordinary power which could not be sparingly used that too

upon unsubstantiated plea of the defense.

**4.3)** The petitioner has mentioned in the petition that the suit is barred by law, but the petitioner has failed to mention the under which law the plaintiff is prevented from filing this suit and fails to mention which law bars this court from trying this suit which is one for a preventive relief under specific relief act 1963, which is a Civil right and this court has no bar to try this suit. The petitioner has mentioned that the suit is barred by limitation as the plaintiff is challenging the compromise decree in OS.No. 28/1954 after 46 years, but on perusal of the plaint this court can perceive that the plaintiff has filed this suit for cancellation of the disputed settlement deed executed by the 1<sup>st</sup> defendant infavour of the 2<sup>nd</sup> defendant. Hence, this court is unsatisfied with the plea of the petitioner. Moreover the question whether the suit is barred by limitation is mixed question of law and fact and which cannot be decided at this stage without full fledged trial. Further the petitioner has mentioned the suit is barred by Resjudicata and it is the settled principle that the suit cannot be rejected for reason that it is barred by Resjudicata.

**4.4 )** Further the petitioner has stated that the relief claimed is under valued , but on bare perusal of the court fee column this court can perceive the suit claim is properly valued. Further, a check slip have been issued in this suit to rectify the deficit court fee and the plaintiff has filed amendment petition to rectify the same, which was returned due to the

defects. Eventhough, such plea of deficit court fee is taken into consideration , the plaintiff has failed to pay the Court fee for the plaint 'C' relief and a plaint cannot be rejected in part and it cannot be rejected without giving an opportunity to pay the deficit court fee. Hence, from the lights of above discussions and considering the plaint averments this court is of view that there is no ground to reject the plaint and finds no merit in allowing this petition. Hence this petition is dismissed.

5. In the result, this petition is dismissed. No order as to costs.

Dictated to the Typist, transcribed and typed by her in Computer, corrected and pronounced by me in Open Court this, the 23<sup>rd</sup> day of September, 2025.

Sd/-  
District Munsif ,  
Eraniel.

Petitioner side witnesses & documents:- Nil  
Respondents side witnesses documents :- Nil

Sd/-  
District Munsif,  
Eraniel.

**D.M.Court, Eraniel.**  
**I.A.No.27/2025 in**  
**O.S.No.34/2023**  
**Draft/Fair Order**  
**Dated: 23.09.2025**