

IN THE COURT OF PRINCIPAL DISTRICT MUNSIF
AT KANCHIPURAM

PRESENT: Tmt. Fanny Rajan, B.A., B.L.,(Hons)
Principal District Munsif, Kanchipuram

On Wednesday, the 3rd day of December 2025
I.A. No. 11 of 2025

in

O.S.No. 103 of 2023

CNR No. TNKP08-000179-2023io0

1. Ponmozhi
2. Yuvaraj

....Petitioners/Defendants 1 and 2

/Vs/

1. Subash @ Balaji
2. Mohankumar
3. The Sub Registrar, Joint-1, Kancheepuram
4. The District Registrar, Registration of Documents
Kancheepuram District, Kancheepuram

.... Respondents/ Plaintiffs

.... Respondents/ 3 and 4 defendants

This Petition has come up on 13.10.2025 for final hearing before me in the presence of M/s. Devaprian, P. Balu counsel for the Petitioners/defendants 1 and 2 and M/s.S. Dilli babu, P. Duraivel counsels for the Respondents/1st and 2nd Plaintiff, the 3rd and 4th respondent are already set exparte in the suit, upon hearing the argument and upon perusing the connected material records and having stood over till this day for consideration, this court delivers the following orders:

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ORDER

1. The petitioner has filed this petition under Order VII Rule 11 and Section 151 of CPC to dismiss the suit for want of cause of action and thus render justice.

Concise Statement of the averments in the affidavit filed by the 1st Petitioner:-

2. The Petitioner has averred that the property was originally owned by one T.Murugesu Naicker who bequeathed it in favour of his wife Amaravathiammal as per registered Will dated 13.02.1998. He died on 22.09.2002 and after the demise of him, the said Will has come into force. The said Amaravathiammal having got the property was in possession and enjoyment of it bequeathing a portion to her grandsons, i.e. the Plaintiffs as per registered Will dated 27.09.2006.

3. The said Amaravathiammal was not taken any care by Plaintiffs and was under the care and custody of her grand daughters namely Ponmozhi and Aruna. A part of the property was bequeathed to them as per registered Will dated 16.04.2009. She has come to the Sub Registrar office, Kancheepuram and signed the above said Will before the Attesting witness including the ledger book maintained and all those process have been done in the proper manner.

4. The said Amaravathiammal has sold away the property in survey number 883/1C in favour of one Varathan who is the husband of the 1st Petitioner as per registered sale deed dated 25.05.2011. He died on 22.06.2012 leaving behind him, his mother Krishnaveni and his wife as his legal heirs who inherited the property. After the death of Krishnaveni, the 1st petitioner alone has become the absolute owner and

was in physical possession and enjoyment. Thus, the present owner who is the 1st petitioner herein has been in physical possession and enjoyment of the suit property by way of exercising all rights of ownership over the same.

5. The suit is filed claiming some imaginary right over the said property under the previous Will dated 27.09.2006 which is not at all the last Will of the said Amaravathi Ammal. There is another will dated 16.04.2009 infavour of the first Petitioner. Further, the said Amaravathi Ammal has sold away the property infavour of one Varathan as per registered sale deed dated 25.05.2011. She died on 17.01.2018 and the Wills dated 27.09.2006 has not been acted upon and the Plaintiffs have no right over the property or possession. The 1st Petitioner is the sole heir and has succeeded to the suit property and in possession as absolute owner which cannot be disturbed. The suit is vexatious and without any cause of action

6. She sold the same in favour of Thiru D.Elango vide a registered Sale Deed dated 23.05.2023 which was released on 12.12.2023. The suit was filed without impleading him as a party and thereafter an impleading petition was filed and allowed on 18.10.2024. The suit is posted for amendment steps. The interim injunction application in 1.A.No.3 and 4 of 2023 seeking not alienate the suit property and not to disturb the possession have been dismissed by order dated 06.12.2023 after hearing both sides. Hence this petition.

Concise Statement of the averments in the counter filed by the Respondents/Plaintiffs:

7. The respondent had denied the allegations and averred that the petition is not maintainable. It is admitted that the Plaintiffs and 1st defendant are the grandsons and daughter of Mr.Murugesu Naicker and Amaravathiammal. As per the version of the Petitioner, she was aware of the Will in favour of the Respondents/Plaintiff executed by said AmaravathiAmmal dated 27.09.2006. Under undue-influence and without free consent of Amaravathiammal, she created a Will in favour of herself and her sister Mrs. Aruna to grab the suit property in an unlawful ways with malafide intention.

8. The alleged Sale Deed by Amaravathiammmal in favour of Varathan is forged and executed without consent and under undue influence, without valid sale consideration. The averments regarding whether the property was bequeathed upon her, or sale deed was executed in favour of her husband and sale consideration are not clear. Only from the written statement they became aware of the Will claimed by the Petitioners and the sale deed, which have to be declared null and void.

9. After the suit was filed, the Respondent filed a prohibition petition before the Sub Registrar, Joint II Kancheepuram and enquiry was conducted. Als a petition was filed for not to alienate and status quo was ordered and the petition was later dismissed on 06.12.2023. The 1st defendant had alienated the suit property on 12.12.2023, in favour of her counsel on record Mr.Elango through a registered deed.

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Therefore, the act of the Petitioner/1st Defendant is hit under lis-pendance. Hence, Mr.Elango was permitted to be added as the 5th defendant as per order in I.A.No. 9 of 2024. Now the case was posted for amendment but the suit property was again alienated by Mr.Elango in favour of one Manickam, the brother-in-law of the 2nd Defendant. This present application is filed to drag the proceedings of this court.

10. The suit filed by the Plaintiffs is with sufficient triable cause of action to declare the alleged sale deed in favour of Varathan dated 25.05.2011 under document No.1432 of 2011 on the file of SRO, Joint -I, Kancheepuram as null and void and not binding on the Plaintiffs and consequential reliefs. The defendants already filed their written statements and the suit was posted for framing of issues. Hence, at this time the Petitioners filed this vexatious application. Moreover, the cause of action for suits includes bundle of facts and circumstances since, the same was to be proved after detailed trail of this suit. Hence, the petition is liable to be dismissed with costs.

11. Upon perusal of records, it is noted that the 3rd and 4th respondent herein are the 3rd and 4th defendant in the suit and already set exparte in the suit. Hence, notice has been dispensed with in this petition.

12. Points for consideration: Whether this Petition under Order VII Rule 11 of CPC to dismiss the suit for want of cause of action has to be allowed or not?

Discussion and findings:

13. This Court considered the oral submissions of both the counsels and perused the materials on record. No oral or documentary evidence has been let in by both parties.

The main bone of contention remains that the suit is without cause of action as the Will through which Plaintiffs claim title is not the last will. Also that the interim injunction applications have been dismissed.

14. It is well settled principle of law that for rejection of a plaint under Order VII Rule 11 CPC the court can look into only the plaint and plaint documents the merits of the pleadings and the averments in the written statement cannot be considered, no amount of evidence can be looked into at this stage and the plaint may be rejected only on satisfaction of anyone of the grounds mentioned in Order VII Rule 11 CPC. In consideration of these dictums, this court perused and dealt with the contentions.

15. With regard to the contentions regarding the conveyance of title from Amaravathi ammam to the Plaintiffs or the 1st defendant, the execution of the Wills, which is the last will, the sale deed executed by the said Amaravathiammal in favour of Varathan, the deed being forged or not or whether there was undue influence and lack of consent, no passage of sale consideration, identification of the suit property, the possession, ownership of the suit property, the sale in favour of the proposed 5th defendant whether hit by lis pendens, who is in possession, whether there is cloud over title, whether the suit is bad for not seeking the relief of declaration of title, the entitlement to the relief of declaration and permanent injunctions as prayed for are all matter of evidence involving mixed question of fact and law to be decided after providing due opportunity for trial.

16. This court considers that the cause of action is a bundle of facts. Whether the Plaintiff proved the cause of action necessitating this suit should also be decided only after due trial. If this court comes to a premature conclusion regarding the issue in respect of the merits of the suit in this petition, it would be prejudicial to the interest of the Respondents/Plaintiffs. Upon thorough perused of the plaint pleadings, documents filed and case of the plaintiff, there is a prima facie regarding the basis on which the title is claimed and the relief is sought for. Only after perusal of evidences, this court would be in a position to decide the merits and demerits of the contentions raised by the Petitioners. It is also pertinent to note that the issues are already framed in the suit and posted for trial, when this petition is filed.

17. This court takes judicial note of the well settled principle of law that the merits and demerits of the pleadings and if the plaintiff are entitled to the relief as prayed for can be decided only subsequent to the trial, when the case of the plaintiff is proved through ocular and documentary evidence. The truth of the pleadings and the entitlement to the relief cannot be determined in this petition to reject the plaint.

18. The Learned counsel for the Petitioner contend that the suit is tainted with malafides and the suit is filed to harass the Petitioners, the suit itself is vexatious. Per contra, the Learned counsel for the Respondent states that the Petitioners have worked behind their back, executed a sale deed pending suit questioning the validity of the sale in favour of the 1st Petitioner's husband. This Court is of the considered view that for the purpose of holding the suppression of fact and disentitlement to the

relief prayed, this Court has to identify if the suppression was malafide for misleading the Court and obtaining favourable orders.

19. This Court finds that the Petitioners/Defendants 1 and 2 have not let in any other specific oral or documentary evidence to substantiate that there is a malafide suppression of material facts. Hence, this court is of the considered opinion that it is quite premature at this stage to conclude that the suppression is malafide and the 1 and 2 Respondents/Plaintiffs have approached this Court with unclean hands in this petition at this juncture.

20. In light of the aforesaid discussions and findings, this Court concludes that there are no merits in this Petition to reject the Plaint under Order VII Rule 11(a) of CPC and hence, this Petition shall be dismissed. Considering the fact that no malafides are exhibited in this petition, this Court is of the considered view that the parties shall bear their own costs.

RESULT:

21. In the result, this petition is hereby dismissed. No costs.

Dictated to the steno typist partly, who directly typed the same in her Computer and partly typed by me, corrected and pronounced by me in open court, this the 3rd day December 2025.

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Petitioner and Respondent side witness and document : NIL

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