

IN THE COURT OF THE SUBORDINATE JUDGE, MELUR.

Present: Tmt. M. SAMUNDEESWARI PRABHA, M.A., M.L.,

Monday, the 11th day of August 2025

I.A.No.1/2025

in

O.S.No.315/2024

Ajithkumar Petitioner/ defendant

// Vs //

B.Pitchaiammal Respondent/Plaintiff

This petition coming up for final hearing before this court on 07.08.2025 in the presence of Advocate.Thiru.A.Sahul Hameed, Advocate for the Petitioner/Defendant and Advocate.Tmt.Jessi Jeevapriya, Advocate for the respondent/Plaintiff and upon hearing the enquiry on both sides, on perusal of the records and having stood over for consideration till this day, this court delivers the following:-

Orders

This petition has been filed Under Order 7 Rule 11(a) & (d) of CPC pass an order to reject the plaint of this petition.

1. Brief averments of the petition :-

(I) The petitioner herein is the defendant in the original suit in OS.No.315/2024. The respondent/plaintiff filed the suit for declaration regarding the sale deed dated 29.04.2002 under Document No.1619/2002 for cancellation of sale deed and also for null and void with cost. The petitioner entered appearance through counsel and filed the detailed Written Statement. At a stretch, the plaint has to be rejected, since the suit filed by the respondent/plaintiff is barred by law Under Order 7 Rule 11 (a) & (d) of C.P.C. Further the suit filed by the respondent/plaintiff is barred by limitation Under Article 59 of Limitation Act. The reasons given by the respondent/plaintiff as well as filed by the documents is in order to grab the suit property in the name of the Lakshmi Ammal. Further the respondent/plaintiff filed the suit after 22 years for claiming right over the suit property. Since the property of the value is high according to guideline values and also market value of Rs.35,00,000/-, The respondent/plaintiff is not having any right, title and possession over the suit property. Further the property is damaged condition now as stated in the plaint in Para No.6 of the plaint.

(ii) The respondent/plaintiff filed the vexatious suit and after 22 years, within 1 year they filed so much of complaint before the police authority. Further the police authority advised both parties that they approached the proper authority. As per law Under Order 7 Rule 11 (a) & (d) of C.P.C. and Under Order 2 Rule 2 of C.P.C. that the suit filed by the respondent/plaintiff not according to law. The respondent/plaintiff

filed the above suit in order to receive more money from the Petitioner/defendant because the suit property value is more than Rs.30,00,000/-. The petitioner prays to pass an order to reject the plaint. Hence this petition has to be allowed.

2. The Respondent/Plaintiff filed Counter refuting the averments of the petition and affidavit:-

(I) The respondent herein is the plaintiff in the original suit. This petition is false. Except the allegations which are herein after expressly admitted the rest of the allegations made in the petition and affidavit are denied by this respondent and the petitioner is put to strict proof of the same. On reading of the plaint alone, the court cannot ex-facie conclude as to the maintainability of the suit on the ground of limitation. On perusal of the plaint, it would clearly shows that the prayer in the plaint are to declare the property belonged to the plaintiff and to cancel and declare the sale deed dated 29.02.2002 in Doc.No.1619/2002 as non-est in the eye of law and not valid. The plaintiff has signed the document on misrepresentation of the character of the document that it was a deed for cancellation of mortgage.

(ii) The plaintiff have pleaded that there was a fraudulent misrepresentation as to the character of the document and the plaintiff was unaware of the character of the document executed by the plaintiff. And hence, the sale deed dated 29.02.2002 in Doc. No. 1619/2002 is Void and non-est in the eye of law. The plea of non-est factum is a triable issue and it could not be decided in a petition filed for rejection of the plaint. The Article 59 of the limitation act applies specifically when a

relief is claimed on the ground of fraud or mistake and it only encompasses within its fold the transactions which are voidable. Hence this petition has to be dismissed with costs.

3. The point for consideration aroused is that:-

Whether the petition has to be allowed or not ?

4. Point :-

Both sides heard. Records perused. This petition has been filed by the petitioner to reject the plaint stating that the suit is barred by Law of Limitation. The suit has been filed to cancel the sale deed dated 29.04.2002 in favour of one Mrs.Lakshmi executed by one Mrs.Pitchai Ammal.

The above sale deed was challenged by the respondent/plaintiff as null and void in the suit. Hence this application for rejection of plaint filed by the petitioner/defendant on the ground of barred by law of limitation.

As rightly stated by the counsel for plaintiff/respondent that Law of Limitation is a mixed question of Law and facts which will be determined only after the completion of trial. At the threshold, this court cannot throw away the plaint stating that the suit is barred by law of limitation.

Hence this petition is a premature one and so this petition has got no merits at this stage.

5. Result:-

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

Dictated to the Steno Typist by me, and typed by her directly, corrected and pronounced by me in open court, this the 11th day of August 2025.

**Sub Judge,
Melur.**

Both sides of witness and documents : Nil

**Sub Judge,
Melur.**

Draft/Fair Order
in
IA.No.1/2025
in
O.S.No.315/2024
Dt : 11.08.2025
Sub Court, Melur