

In the Court of District Munsif cum Judicial Magistrate, Kilvelur.

Present: Tmt. B. Deepka, B.A., B.L(Hons).,

District Munsif cum Judicial Magistrate, Kilvelur.

Monday, this the 5th day of April 2025

2056 Thiruvalluvarandu, Sri Visuvavasu Varudam Chithirai 22nd day

I.A. 3/2024 In O.S. No. 81 of 2023

Bakiyaraj

.....Petitioner/1st Defendant

/Vs/

1. Umamaheshwari

....Respondent/Plaintiff

2. Selvi

3. Dhevaki

4. Rajeshwari

....2 to 4 Defendants

This Petition came before me on 05.04.2025 for final hearing in the presence of Mr. M. Sudhakar, Learned Counsel for the petitioner/1st Defendant and Mr. M. Kannadasan, Learned Counsel for the respondent/plaintiff and upon perusing the documents, having stood over till this day for consideration, this court delivers the following:

ORDER

Petition filed Under Order VII Rule 11 and 151 of CPC praying for a Rejection of Plaint and to pass such other order as deemed fit and proper and thus render justice.

2. Brief averments of the petition:

The petitioner submits that the respondent failed to mention the ownership of the suit property and how the suit property ended up with their father Kalimuthu and the reason for not creating any documents regarding the suit property. The petitioner further submits there is no cause of action in the suit and the respondent failed to add the necessary parties to the suit and also failed to file the necessary documents in the suit as a result of which this plaint should be dismissed. Hence this petition.

3. Brief averments of the counter:

The respondent submits that the petitioner had been set exparte and after a period of one year, he had appeared before this court as he does not want the respondent to obtain 1/5th share of the properties. The respondent further submits that after her father deceased, the petitioner and his wife did not allow the respondent to accommodate the house adjacent to her father's

house. The respondent further submits that the other defendants in the case also did not accommodate this respondent and hence she is residing separately and making her living by doing household chores. The respondent further submits that the necessary documents had been filed. Hence prays to dismiss this petition.

4. Point for consideration?

Whether this petition u/O.7, R 11 of CPC filed by the petitioner deserves to be allowed or not?

5. Discussions:

Both sides heard and perused the records. The case of the petitioners is that there is no cause of action for this suit to arise and the respondent had failed to add the necessary parties and documents for this suit. On the contrary, the respondent submits that there is bonafide cause of action and had failed all the necessary documents to prove this case.

6. On reading of the plaint, this court could ascertain that the plaintiff had come forward with a suit for partition. The case of the plaintiff is that the defendants are not allowing her to enjoy the property of her father and is

now living separately and making her living by doing household chores. The plaintiff had contended that the 1st and 2nd defendant are enjoying the properties without making way for partition. In such circumstances, the defendants had come forward with this petition to reject the plaint on the ground that there is no cause of action and no necessary documents had been shown to prove the ownership of the suit property. The defendants had contended that her share had been provided by means of money and therefore this suit cannot arise.

7. In the above discussions, this court could ascertain that the suit being one for partition, the plaintiff had come forward with this suit as the defendants had failed to give her share of the property whereas the defendants had stated that there is no cause of action to this suit. In such circumstances, on perusal of the plaint, this court finds that the claim put forth by the petitioner that there is no cause of action does not find any merit before this court as the issue whether the plaintiff is entitled to partition or not could be decided only after a full trial. In such circumstances, this court considers all the issues pertaining to the same could be decided after due consideration of the pleadings of both the parties and after letting in evidence.

8. Therefore, this petition by the petitioners to reject the plaint on the ground that there is no sustainable cause of action by the respondent is liable to be dismissed.

In Result, this petition is dismissed with no costs.

Typed by me in my personal computer, corrected and pronounced by me in the open court on the 05th April 2025.

District Munisf cum Judicial Magistrate,
Kilvelur.

Petitioner side Witnesses: -NIL-

Respondents side Witnesses: -NIL-

Petitioner side Exhibits: -NIL-

Respondents side Exhibits: -NIL-

District Munisf cum Judicial Magistrate,
Kilvelur.

District Munsif -cum- Judicial
Magistrate Court, Kilvelur.
I.A.No.3/2024
in
O.S.81/2023
Fair Order/Draft Order
05.04.2025