

IN THE COURT OF THE DISTRICT MUNSIF, SENDAMANGALAM

**PRESENT: SELVI. E.RIDHULA,B.A.,LL.B.,
DISTRICT MUNSIF,
SENDAMANGALAM.**

Wednesday, the 03rd day of June 2026

IA.No.5/2025 in OS.No.134/2022

1. Thangam
2. Mohanraj

...Petitioners/1, 2 Defendants

/vs/

1. Sarasu
2. Muthulakshmi
3. Sivaraj

... Respondents/Plaintiffs

This petition came before me for final hearing on 09.03.2026 in the presence of Advocate Tr.S.Varanesh, Learned Counsel for the Petitioners/1, 2 Defendants and Advocate Tr.M.Arivukkumar, Learned Counsel for the Respondents/Plaintiffs and upon hearing both the side arguments and on perusal of the records stood over for consideration till this day, this court passed the following: -

ORDER

This petition has been filed by the petitioner under Order VII Rule 11 (a), (d) of the Code of Civil Procedure, 1908 seeking rejection of plaint.

2. THE CRUX OF THE PETITION:

2.1) The petitioner submitted that, the 2nd petitioner and his mother the 1st petitioner herein, are the absolute owners and are in absolute possession and peaceful enjoyment of the suit property by virtue of last will executed by his father late Venkatachalam. The said WILL was registered as Document No.45/2022, on the file

of the Sub registrar at Erumapatty. After demise of 2nd petitioner's father, the said will came into force and all the revenue records are transferred in 2nd petitioner name and in the name of mother. The respondents were never in possession of the suit property at any point of time. Further, the respondents are the 1st wife, son and daughter of late Venkatachalam. On the consent of the 1st wife (1st respondent herein), 1st petitioner marriage was performed with 2nd petitioner's father legally as per Hindu Rites. The respondents had released their right on 22.02.2011 and interest in favour of 2nd petitioner's father and executed the release deed, relinquishing their share in respect of the suit property and other property. Therefore, the respondent has no right or locus standi and are estopped from agitating the issue and has no cause of action to institute the suit based on succession.

2.2) The respondents have filed the suit for 'a) declaring the alleged Will registered in favour of the 1, 2 defendants Vide.D.No.45/2022 dated 13.07.2022 by the 3rd defendant as null and void, b) a permanent injunction restraining the defendants from in any way alienating the suit property to the third parties until the suit is decided as per law'. The respondents have pleaded in the plaint Para No.2 that 'as per the release deed executed by the plaintiffs in favour of the said Late. K.Venkatachalam, S/o. Karuppannapillai and it was registered by the 3rd defendant Vide. D.No.321/2011 dated.22.02.2011, the property wherein situated at D.Nos.14A to 14D, and 15, Kadai Veethi, Erumaipatti village, Namakkal in old S.F.No.266/2, New S.F.No.447/9, the said properties. Totally 4 Shops and a residential place and it's to an extent of totally 1894.Sft' as per averments they lost their right by virtue of release deed in Document

No.321/2011 dated 22.02.2011. The same was not challenged within three years from the date of execution of the document by the plaintiffs in order to overcome the limitation the above prayer was sought instead of seeking the set aside their release deed. The plaintiffs by clever drafting of the plaint attempted to make out an illusory cause of action. The plaintiffs have no right in the suit property as per release deed. The apex court as held that ‘The allegations are vexatious and meritless and not disclosing a clear right or materials to sue, it is the duty of the trial judge to exercise his power under Order 7 Rule 11 if clear drafting has created the illusion of a cause of action and bogus litigation can be shut down at the earliest stage. The law declared by various High Courts is that Order VII Rule 11(d) of C.P.C makes it clear that the relevant facts which need to be looked into for deciding an application there under are the averments in the plaint. The averments in the plaint are germane, the pleas taken by the defendant in the written statement would be wholly irrelevant to decide the application filed under Order VII Rule 11 of C.P.C’.

2.3) The Apex Court has held in T.Arivandandam vs. T.V.Satyapal and Anr. as follows: The learned Munsif must remember that if on a meaningful - for formal reading of the plaint it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under Order VII, Rule 11 Code of Civil Procedure taking care to see that the ground mentioned therein is fulfilled and if clever drafting has created the illusion of a cause of action nip it in the bud at the first hearing by examining the party searchingly under Order X, Code of Civil Procedure. An activist Judge is the answer to irresponsible law suits. The trial

Courts would insist imperatively on examining the party at the first hearing so that bogus litigation can be shut down at the earliest stage. I further state that the suit filed by the Plaintiffs are vexatious, meritless, and does not disclose any cause of action and the plaint is liable to be rejected under Order VII Rule 11(a), (d) of C.P.C. Therefore, it is humbly prayed that this Hon'ble Court may be pleased to reject the plaint in O.S. No.134/2022 on the ground of no cause of action and thus render justice.

3. THE CRUX OF THE COUNTER STATEMENT FILED BY THE RESPONDENTS/PLAINTIFFS:

3.1) The respondents have filed their counter statement denying the allegations made in the petition. It is submitted that, this petition is not maintainable and is liable to be dismissed in limine. The Petitioners ought to have explained under what ground the petition is maintainable and the petitioner relied only on citation by the apex courts and failed to narrate how the present case related to the said cases. Since there is no proper explanation in the affidavit, this application could not be produced at first instance and thus, it is liable to be dismissed. It is necessary to read the plaint as part and parcel of this affidavit. The 2nd and 3rd petitioners are son and daughter and the 1st petitioner is the concubine of 1st respondent's husband and the 2nd petitioner is alleged son of 1st respondent's husband. At the outset the petitioner has to prove that the 1st petitioner is legally wedded wife and the 2nd petitioner is son of 1st respondent's husband. The properties are the absolute properties of 1st respondent husband late. Venkatachalam and it's pertinent to note that the 2nd item of the suit property belongs to 1st respondent husband by way of release deed executed by us.

The petitioner strangely claimed that the 1st petitioner was married to 1st respondent's husband with 1st respondent consent, 1st respondent strictly put the petitioner to prove the same, the relationship of the 1st petitioner with husband is suspicious and the 2nd petitioner is also not legal heir of 1st respondent's husband. The 1st petitioner came as cleaning staff and developed immoral relationship with late.Venkatachalam.

3.2) Further, the petitioner alleged that 1st respondent had given consent and left the properties to the petitioner and executed a settlement deed in favor of late.Venkatachalam. The 1st respondent never given any consent as alleged by the petitioner. In the absence of the 1st respondent, the petitioners took late.Venkatachalam to the register office and executed Will in fvaour of the 1st petitioner. It's pertinent to note that at the time of execution of Will, late.Venkatachalam lost his conscious and legal position to execute the will. The said will is not at all maintainable and liable to set aside by this Hon'ble court. On knowing the suspicious in Will, the respondents have filed the present suit to declare the Will executed by late.Venkatachalam. Further, the respondents have filed O.S.No.126/2022 before this Hon'ble court to declare them as the legal heirs of Late. Venkatachalam, the same is pending for adjudication. The petitioner has also filed I.A.No.2/2023 in O.S.No.126/2022 to reject the plaint as no cause of action. This Hon'ble court has rightly dismissed the above said I.A.No.2/2023 on 04.12.2025. The petitioners have filed the present petition with similar prayer raised in IA.No.2/2023 in O.S.No.126/2022. The intention of the petitioners is to drag the civil suits without conducting trial and they are taking the steps to delay the process of the suits.

3.3) Further submitted that, the 1st respondent has filed the present suit to declare the will executed late.Venkatachalam as null and void by claiming that late.Venkatachalam was unconscious at that time of execution of Will. Per contra the petitioner claimed that late.Venkatachalam married the 1st petitioner with the 1st respondent's consent. The 1st respondent has documents and evidences in support of their claim and to be tested during the course of trial. In the said circumstances, the petitioner has filed this petition to reject the suit as no cause of action and claiming that the suit is barred by limitation. The suit is filed in the year 2022 after immediate knowledge about the Will. The 1st respondent never raised any issue about the release deed but the petitioners claimed that the suit to be filed within three years from the execution of release deed. It's pertinent to mention that the petitioners cannot dictate the plaintiffs to what relief to be claimed, hence the allegations levelled by the petitioners are baseless. The Petitioners are dragging on the proceedings with some ulterior motive. Hence, the petition is liable to be dismissed with cost.

4. POINTS FOR CONSIDERATION:

Whether this Petition filed by the Petitioners under Order VII Rule 11 (a), (d) of CPC to reject the plaint is to be allowed or not?

5. DISCUSSION AND DECISION:

5.1) Heard both sides and perused the case records. No documents were marked and no witnesses were examined.

5.2) On perusal of case records, the Respondents/Plaintiffs have filed the main suit against the Petitioners/1, 2 Defendants and other defendant for the reliefs of

(1) Declaration to declare the alleged Will registered infavour of the 1 and 2 defendants vide D.No.45/2022 dated 13.07.2022 by the 3rd defendant as null and void, and (2) a Permanent Injunction restraining the defendants from in any way alienating the suit property to the third parties until the suit is decided as per law. While the main suit was pending for filing of written statement, the petitioners/1, 2 defendants have filed this petition under Order VII Rule 11 (a), (d) of CPC, seeking rejection of plaint on the grounds that (i) no cause of action, and (ii) the suit is barred by limitation.

5.3) The learned counsel for the petitioners argued that, the 1st respondent is the first wife of Late Venkatachalam and 2, 3 respondents are his children. According to the petitioners, the 1st petitioner married Late Venkatachalam with the consent of the 1st respondent, and the 2nd petitioner was born out of the said wedlock. Further, the suit property originally belonged to Late Venkatachalam and the respondents had executed a Release Deed dated 22.02.2011 in his favour in respect of the suit property. By virtue of the Release Deed, the respondents relinquished all their rights, and interest in the suit property. Therefore, they have no locus standi to challenge the Will dated 13.07.2022 allegedly executed by Late Venkatachalam in favour of the petitioners. The respondents have deliberately omitted to challenge the Release Deed, and by adopting clever drafting, have attempted to create an illusory cause of action, and also the suit is barred by limitation. In support of his contentions, the learned counsel relied upon the decisions reported in {(2023) 1 SCR 261}, {2023 SCC Online Sc 521}, and {(2020) 7 SCC 366}, and prayed for rejection of the plaint on the ground that it does not disclose any cause of action and is barred by law.

5.4) Per contra, the respondents contended that the suit has been filed seeking a declaration that the Will dated 13.07.2022 is null and void on the ground that Late Venkatachalam was not in a sound mind at the time of its execution and that the Will came into existence under suspicious circumstances. It is further contended that, the 1st petitioner is not the legally wedded wife of Late Venkatachalam and that the respondents have already filed O.S.No.126/2022 before this Court seeking a declaration of their status as legal heirs of Late Venkatachalam. The petitioners herein had earlier filed an application for rejection of plaint in the said suit and the same was dismissed. Further, the present suit was filed immediately upon gaining knowledge of the alleged Will executed in the year 2022 and is therefore well within the period of limitation. The petitioners have failed to make out any of the grounds contemplated under Order VII Rule 11 CPC and have filed the present petition only to delay the proceedings. The questions relating to the validity of the Will, the rights of the parties and the effect of the Release Deed involve question of fact which can be adjudicated only upon a full-fledged trial. Hence, the petition is liable to be dismissed with costs.

5.5) At this juncture, this court deems it necessary to refer to Order VII Rule 11 of the Code which deals with the grounds for rejection of a plaint:

“11. Rejection of plaint. - The plaint shall be rejected in the following cases-

(a) where it does not disclose a cause of action;

(b) where the relief claimed is undervalued, and the plaintiff, on being required by Court to correct the valuation within a time to be fixed by the Court, fails to do so;

(c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in plaint to be barred by any law;

(e) where it is not filed in duplicate;

(f) where the plaintiff fails to comply with the provisions of rule 9;

Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.”

5.6) Thus, Order VII Rule 11 of CPC empowers the court to summarily dismiss a suit at the outset, without recording evidence or conducting a trial, if it is satisfied that the suit falls under any of the grounds specified in the provision. While deciding the rejection of plaint only plaint averments and plaint documents to be taken for consideration. In the present case, the petitioners seek rejection of the plaint under Order VII Rule 11(a) and (d) CPC on the grounds that the plaint does not disclose a cause of action and that the suit is barred by limitation. According to the petitioners, the cause of action pleaded in the plaint is merely illusory. Insofar as Order VII Rule 11(a) CPC is concerned, a reading of the plaint as a whole discloses that the plaintiffs have specifically pleaded that they are the legal heirs of Late Venkatachalam and that

the Will dated 13.07.2022 was not validly executed. The plaintiffs have further averred that at the time of execution of the Will, Late Venkatachalam was not in a sound and conscious state of mind and that the Will is surrounded by suspicious circumstances. On the strength of these averments, the plaintiffs have sought a declaration that the said Will is null and void along with consequential reliefs. Whether the plaintiffs have any subsisting right in the suit property in view of the Release Deed dated 22.02.2011, whether they are entitled to challenge the Will, whether the Will was duly executed, and whether the Release Deed had the effect of extinguishing all the rights of the plaintiffs are matters which requires a full-fledged trial. At this interlocutory stage, such issues cannot be adjudicated under Order VII Rule 11 CPC. Therefore, rejection of the plaint on the ground of absence of cause of action is not acceptable.

5.7) Further, in Yrooj Ahamed Lords Enterprises Vs. Preethi Kitchen appliances Pvt.Ltd, 2013(6) CTC 247, the Hon'ble Court observed that a cause of action consists of a bundle of facts, which together establish the right to sue. While an application under Order VII Rule 11 of the CPC is applicable in cases where there is a non-disclosure of a cause of action, and it does not apply to cases where the cause of action is defective. Therefore, in the present case, the plaint has sufficiently disclosed a cause of action.

5.8) Secondly, the petitioners contended that the plaintiffs ought to have challenged the Release Deed dated 22.02.2011 and that any such challenge would now be barred by limitation. A perusal of the plaint reveals that the relief sought by the

plaintiffs is not for cancellation or setting aside of the Release Deed, but for a declaration that the Will dated 13.07.2022 is null and void. Further, for the purpose of Order VII Rule 11(d) CPC, the bar of limitation must be apparent on the face of the plaint itself. Unless such bar is evident from the averments contained in the plaint, the plaint cannot be rejected at the threshold. In the present case, the plaint discloses that the respondents are challenging only the Will dated 13.07.2022 and the suit was instituted in the year 2022. Therefore, it cannot be concluded, on a plain reading of the plaint, that the suit is ex facie barred by limitation. Further, the law of limitation is a mixed question of fact and law, which can be adjudicated only after full-fledged trial. Consequently, the contention raised by the petitioners under Order VII Rule 11(d) CPC is devoid of merit.

5.9) The decisions relied upon by the petitioners' counsel undoubtedly reiterate the settled principle that vexatious, frivolous and meritless litigations, which do not disclose a cause of action or are clearly barred by law, may be nipped in the bud by invoking the provisions of Order VII Rule 11 CPC. However, the said principle can be applied only where, on a plain reading of the plaint, no cause of action is disclosed or the suit is ex facie barred by any provision of law. In the present case, the plaint contains specific averments challenging the validity of the Will dated 13.07.2022 and sets out the factual basis for the reliefs sought.

5.10) In view of the foregoing discussion, this Court is of the considered opinion that the plaint as a whole discloses a cause of action for instituting the suit. Further, it cannot be said that the suit is barred by limitation on the face of the plaint

averments. The contentions advanced by the petitioners/1, 2 defendants pertain to disputed question of fact which cannot be adjudicated at this preliminary stage, and can be determined only after full-fledged trial. Consequently, this Court finds that the petitioners have failed to establish any of the grounds contemplated under Order VII Rule 11 of CPC for rejection of plaint. Therefore, in the interest of justice and to ensure a fair opportunity for both parties to present their case, this Court is inclined to dismiss this petition.

6. In the result, this petition is DISMISSED with no order as to costs.

Dictated to the Steno-typist, taken down in dictation and typed by her in the computer, corrected and pronounced by me in the open court on the 03rd day of June 2026.

District Munsif,
Sendamangalam.

Petitioners/ defendants Side Witnesses and Exhibits:

Nil

Respondents/plaintiffs Side Witnesses and Exhibits:

Nil

District Munsif,
Sendamangalam.

Order
IA.No.5/2025
OS.No.134/2022
dt.03.06.2026.