IN THE COURT OF THE DISTRICT MUNSIF, KUMARAPALAYAM

Present: Selvi. T. Naveena B.com. L.L.B (Hons.),
District Munsif,
Kumarapalayam.

Friday, the 10th day of October 2025

I.A. No: 3/2024
IN
O.S. No: 259/2020

T. Rahul Prasath … Petitioner/3rd Defendant

/Vs/

1. K. Shanmugavel
2. P. Anandan … Respondents/Plaintiffs

This petition came for final hearing before this court on 26.09.2025 in the presence of Thiru R. M. Gurusaami, Advocate for the Petitioner/3rd Defendant and Thiru G. Gunasekaran, Advocate for the Respondents/Plaintiffs and upon perusal of material records and having stood over for consideration till this date, this court delivers the following:

ORDERS

This petition has been filed under Order VII Rule 11(a, b, c & d) and Section 151 of Code of Civil Procedure code.

1. BRIEF FACTS OF THE PETITION WOULD RUN AS FOLLOWS:

The respondents have filed the above suit for declaration and permanent injunction against the petitioner and other defendant and the petitioner has been impleaded as the 3rd defendant in the above suit lis pendens as per the orders in I.A. No: 02/2024 dated 24.01.2024. The respondents do not have any locus-standi to file the above suit under the representative capacity of the creditors, and the respondents have not produced the resolution passed in the alleged creditors body meeting or disclosed the creditor's list and the amount borrowed from them and from the other creditors and have also not mentioned the nature of debts and the documents under which they had borrowed the alleged loans.

The respondents have suppressed many material facts and the defendant 1 and 2 seem to be colluded together in order defeat the rights and interest of the petitioner, who is a Bonafide purchaser of $1/5^{th}$ share i.e., 15 cents in the petition mentioned property by virtue of a Sale deed dated 03.09.2022 which is scheduled under the Sale deed dated 12.01.2016 standing in the name of the 2^{nd} defendant. The respondents' have failed to plead about the fraudulent transfer in detail in the plaint. The aforesaid Sale deed dated 12.01.2016 between K. S. Velusamy and K. S. Boopathy is a Bonafide transfer for a Sale consideration of Rs.6,00,000/- but the respondents have undervalued the suit property at Rs.6000/- and had paid the insufficient court fee of Rs.180/-. The suit is absolutely barred by limitation and the relief claimed by the respondents is undervalued and the respondents have knowingly failed to correct the value of the suit property. The respondents have failed to disclose the cause of action and the pecuniary jurisdiction is wrongly fixed.

The 2^{nd} respondent had already filed a suit for recover of money in O.S.No:40/2016 on the file of 1^{st} ADJ Erode against the 1^{st} defendant and the same was decreed exparte on 14.06.2016 in which the 2^{nd} defendant, namely K.S.Boopathi, had filed a petition in I.A.No:211/2017 in I.A.No:155/2016 in O.S.No:40/2016 for raising the attachment order before judgment and the said I.A.No:211/2017 was allowed and the attachment order was raised on 15.09.2017. The above facts are suppressed with the inner motive to harass and defeat the rights of the petitioner as a Bonafide purchaser under the Sale deed dated 03.09.2022. Therefore, the petitioner prayed to allow this petition and reject the plaint.

2. **BRIEF FACTS OF THE COUNTER STATEMENT FILED BY THE RESPONDENTS WOULD RUN AS FOLLOWS:**

The respondents have denied the allegations made by the petitioner except those admitted as true. The respondents have been conducting this suit in representative capacity for themselves and other creditors of the 1^{st} defendant based on the petition allowed by this court in I.A. No: 409/2017. No appeal has been filed so far against the order passed by this court and thus the respondents have every right to conduct this suit. The petitioner has been added as a party to the above suit on the basis of the purchase of the suit property by the petitioner pending suit.

The present petition filed, when the suit has been posted for defendant side evidence after the completion of plaintiff side evidence, is not maintainable in law. This suit has been filed after proper calculation of Court Fees and after paying the appropriate stamp duty. This suit is not affected by Limitation and has proper cause of action. The purchase by the petitioner on 03.09.2022, in contrary to the buyer beware principle, in collusion with the 1st and 2nd defendants based of the forged Sale deed, is not legally valid. The petitioner has not added the 1st and 2nd defendants as parties to this suit since they have colluded within themselves and thus present petition is not maintainable without sending notice to the 1st and 2nd defendants and without adding the 1st and 2nd defendants are parties. The petitioner has filed the above petition in order to delay the proceedings of the suit and is liable to be dismissed.

3. **ISSUES**: Whether or not the plaint in O.S. No: 259/2020 be rejected?

4. **DISCUSSION:**

Heard. Records perused**.** The above suit has been filed by the respondents for the relief of declaration that the Sale deed dated 12.01.2016 executed in favour of the 2nd defendant is fraudulent, null and void as against the respondents and the general body of creditors of the 1st defendant and for permanent injunction to restrain the petitioners and the 1st and 2nd defendants from alienating or encumbering the suit property. The above petition has been filed by the petitioner to reject the plaint filed by the respondents in the above suit under Order VII Rule 11 (a, b, c and d) i.e., that a) the plaint does not disclose a cause of action, b) the relief claimed is undervalued and the respondents have failed to value the relief in proper on being required by the court, c) the relief claimed is properly valued but is insufficiently stamped and the respondents have failed to value the relief in proper on being required by the court, d) suit is barred by law.

The contention of the petitioner is that the respondents do not have any locus-standi to file the above suit under the representative capacity and that the respondents have not produced the resolution passed in the alleged creditors body meeting or disclosed the creditor's list or the amount borrowed from the respondents and from the other creditors or the nature of debts and the documents under which they had borrowed the alleged loans. When the suit property was purchased by the 2nd defendant from the 1st defendant through the Sale deed dated 12.01.2016 for a Sale consideration of Rs.6,00,000/- but the respondents have undervalued the suit property at Rs.6000/- and had paid the insufficient court fee of Rs.180/- and the pecuniary jurisdiction is wrongly fixed and also that the suit is barred by limitation.

The petitioners have contended that the attachment of the suit property in the suit filed by the 2nd respondent upon the 1st defendant for recover of money in O.S. No: 40/2016 was raised on 15.09.2017 by the 2nd defendant upon petition in I.A. No: 211/2017 in I.A. No: 155/2016 in O.S. No: 40/2016 after the suit was exparte decreed and the respondents have suppressed the said facts to defeat the rights of the petitioner as a Bonafide purchaser under the Sale deed dated 03.09.2022.

The respondents have contended that they have been conducting the present suit in representative capacity for themselves and other creditors of the 1st defendant based on the petition allowed by this court in I.A. No: 409/2017 and thus the respondents have right to conduct this suit. The respondents contended that the present petition filed at the stage of defendant side evidence is intended to delay the proceedings of the suit and is not maintainable and that the above suit has been filed after proper calculation of Court Fees and after paying the appropriate stamp duty and is not affected by Limitation and has proper cause of action. The respondents also stated that the present petition filed without the 1st and 2nd defendants are parties is not maintainable.

From the perusal of plaint pleadings and documents, this court has observed that the respondents 1 and 2 have obtained a judgement and decree against the 1st defendant for the loans obtained by him respectively and also that the suit property had belonged to the 1st defendant through Ex.A6 and that the same was sold to the 2nd defendant through Ex.A7. The present petitioner has been added as a party to the suit through I.A.No:2/2024 since he had purchased a total extent of 0.79 acres on 03.09.2022 form the 2nd defendant in which the 1/5th part of the purchased property is the suit property.

The respondents have filed the suit in representative capacity on behalf of all the creditors of the 1st defendant. The contention of the petitioner is that the plaint discloses no cause of action since the respondents have not produced the resolution passed in the alleged meeting of body of creditors or the creditor's list, the amount borrowed from the respondents and other creditors and the nature of debts and supporting documents. However, it is observed that this court has duly recognized the respondents to act on behalf of all the creditors of the 1st defendant in I.A. No. 409/2017. The absence of the alleged production of documents by the respondents and the locus standi on the part of the respondents to institute the present suit are to be decided in trial and the plaint cannot be said to not disclose a cause of action so as to warrant the rejection of plaint under Order VII Rule 11 (a).

The petitioner has claimed that the when the suit property was purchased by the 2nd defendant from the 1st defendant through Ex.A7 for a Sale consideration of Rs.6,00,000/-, the suit has been filed by the respondents by undervaluing the suit property at Rs.6000/- and have paid the insufficient court fee of Rs.180/-. The petitioner counsel argued that the suit must have been valued in accordance with Section 40 of T.N.C.F. Act but the respondents have valued the suit property and paid court fees under Section 25(d) of T.N.C.F. Act. From the perusal of plaint, this court observes that the respondents have sought the relief of declaration of Ex.A7 as null and void and thus, the valuation of the suit property under Section 25(d) of T.N.C.F. Act is proper in law. However, even if the valuation of the suit for purpose of court fee is disputed to be improper, the same shall be decided in trial and the plaint cannot be rejected under Order VII Rule 11(b), (c) for that very reason. It is also pertinent to note that a plaint is liable to be rejected under Order VII Rule 11(b) or (c) only if the respondents have deliberately evaded to properly value the relief sought or sufficiently stamp the plaint even after being required by the court.

The contention of the petitioner that the suit is barred by limitation is not apparent from the averments in the plaint and the said allegation regarding limitation is a mixed question of fact and law which is to be decided based on facts and oral and documentary evidence adduced by the parties to the suit and thus, the plaint cannot be rejected under Order VII Rule 11(d).

In addition to the above said facts, the petitioner has contended that the attachment of the suit property in the suit in O.S.No:40/2016 filed before the Hon'ble 1st Additional District Court, Erode was raised on 15.09.2017 by the 2nd defendant upon petition in I.A. No: 211/2017 in I.A. No: 155/2016 in O.S. No: 40/2016 and that the petitioner is a Bonafide purchaser and has produced Ex.P8 to P10 in support of the same. The contention of the petitioner that the petitioner is a Bonafide purchaser requires adjudication based on oral and documentary evidences and the said documents produced by the petitioner are not a part of plaint and cannot be based to decide if the plaint can be rejected.

Therefore, from the foregoing discussions and in the interest of justice, this court is of the opinion that the contentions raised by the petitioner are questions of fact requiring adjudication based on full-fledged trial and that a plaint can be rejected under Order VII Rule 11 (a), (b), (c), (d) only if the plaint, on the face of it, discloses no cause of action or is barred by law or suffers from incurable defects regarding valuation or sufficient stamping. Thus, the plaint filed in the present suit cannot be reject and the suit shall be proceeded on merits.

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

Dictated by me to the Steno-Typist and has been typed in the computer directly, corrected and pronounced by me in the open Court on 10th day of October 2025.

NAVEENA T
Digitally signed by NAVEENA T
Date: 2025.10.10 17:36:11 +0530

District Munsif,
Kumarapalayam.

PETITIONER SIDE DOCUMENTS

1.	Ex.P1	Promissory note dated 24.02.2016 for Rs.50,000/- executed by the 1st defendant	Certified copy

2.	Ex.P2	Promissory note dated 01.10.2015 for Rs.11,00,000/- executed by the 1st defendant	Certified Copy
3.	Ex.P3	Decree and judgment in O.S.No.40/2016 before I ADJ-Erode dated 14.06.2016	Certified Copy
4.	Ex.P4	Order Copy of I.A.No. 211/2017 in I.A.No.155/2016 in O.S.No.40/2016 is filed before I ADJ, Erode dated 15.09.2017	Certified Copy
5.	Ex.P5	Sale deed dated 06.05.2013 in favour of 1st defendant	Certified Copy
6.	Ex.P6	Sale deed dated 12.01.2016 executed by the 1st defendant in favour of the 2nd defendant	Certified copy
7.	Ex.P7	Sale deed dated 03.09.2022 in favour of the petitioner	Certified Copy
8.	Ex.P8	Encumbrance certificate dated 17.12.2022	Photo copy
9.	Ex.P9	Attachment Raised Order from Sub-Registrar Office, Kumarapalayam	Original
10	Ex.P10	Paper Publication in Dinamalar Daily dated 26.08.2022	Original

RESPONDENT SIDE DOCUMENTS Nil

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Date: 2025.10.10 17:36:31 +0530

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Kumarapalayam.

Fair/Draft Orders
IA 3/2024 IN
O.S.No.259/2020
Dated:10.10.2025