

IN THE COURT OF THE DISTRICT MUNSIF OF UDHAGAMANDALAM

PRESENT: THIRU. L.PRAKASH., B.Sc., B.L.,
District Munsif, Udhagamandalam

Thursday, the 28th day of August 2025

I.A. No. 01 of 2025
in
O.S. No. 85 of 2024
(C.N.R. No. TNNS030 - 00205 - 2024)

1. S. Venketesh Gowda

2. L. Shantha

...Petitioners/Defendants

/VS/

S. Jithendra

...Respondent/Plaintiff

This petition came before me for final hearing on 12.06.2025 in the presence of Mr. A. Parthasarathy learned Counsel for the petitioners/defendants and Mr. R. Nanjundan, learned Counsel for the respondent/plaintiff, upon hearing both side arguments, and upon considering case records carefully, this court passes the following

ORDER

1. This petition is filed under Order VII Rule 11 of the Code of Civil Procedure, praying to reject the plaint and pass such other suitable orders in the above case.

Gist of Petition and affidavit:

2. The petitioners in this petition and affidavit submitted that, the respondent has filed the above suit for the relief of prohibitory injunction against the forceful dispossession from the suit property without due process of law, which they are contesting. In the petition filed by the 2nd defendant before the RDO, Udhagamandalam/Maintenance Tribunal under senior citizen Act, during the

pendency of suit proceedings, an order dated 18.12.2024 passed, which cancels the alleged settlement deed dated 14.10.2020 (Doc. No. 872/2020) and it directs the plaintiff to deliver the possession of the property to the 2nd defendant. Since, there is an order directing the plaintiff to deliver possession of the suit property to the 2nd defendant, the present suit becomes infructuous.

3. The suit property is also covered under the order of welfare officer dated 18.12.2024 pertaining to the delivery of the possession and leaving no issues for adjudication. The suit is barred under section 27 of the Senior Citizen Act, it shows the plaintiff is attempting to unlawfully delay possession of the property and harass the defendants through the court process. The suit lacks merit and bonafide, the pleadings in the plaint is not in accordance with Order 6 of Civil Procedure Code, and the cause of action is vague and not in consonance. Unless the plaint is rejected, the defendants will suffer irreparable loss and hardship. Hence, prays to allow this petition.

Gist of Counter statement:

4. On the other hand, the Respondent in his counter statement submitted that, the relief of injunction has been sought only against the 1st defendant and it is not perpetual, but for a limited period, until the 1st defendant from taking possession under due process of law. The plaintiff is not claiming rights based on any title from the senior citizen (2nd defendant), but only the relief based on settled possession of the suit property. A petition dated 29.05.2024, where the 2nd defendant herself admitted that the plaintiff was in exclusive possession of the suit property (agricultural land). While the said complaint, dated 29.05.2024 was pending adjudication before the Maintenance Tribunal, the 1st defendant has cajoled the 2nd defendant to transfer the property to him through a Settlement Deed dated 27.06.2024.

5. From then onwards, the 2nd defendant has neither title nor possession upon the suit property. On 26.07.2024, the 2nd defendant gave evidence before the

Tribunal, by reproducing the very same allegations made in her complaint. Subsequently, on 29.07.2024, the 1st defendant has appeared before the Tribunal, confirming the very same statement of the 2nd defendant. That both defendants made statements before the Maintenance Tribunal, which are false and baseless to their own conscience and knowledge. According to settlement deed No. 18 dated 27.06.2024, the 2nd defendant transferred the title of the suit property in favour of the 1st defendant on the same date. On the date of suit, the 2nd defendant ceased to be the owner of the suit property. Both the defendants were very much aware that the plaintiff continued to possess the property, they deliberately made false depositions.

6. The defendants allegedly misleading the Maintenance Tribunal to obtain an eviction order against the plaintiff, to use the said invalid and unenforceable order. On the strength of the said sham and nominal Settlement Deed, the 1st defendant has invaded into the suit property on 15.10.2024 and threatened to dispossess the plaintiff there from. Therefore, left with no other efficacious remedy, the plaintiff has laid the above suit for injunction only against the 1st defendant on 25.11.2024. Apparently, in the above suit, no relief has been sought against the senior citizen (2nd defendant) because on the date of suit, the 2nd defendant was not having any semblance of title, right or possession whatsoever upon the suit property, and she has been impleaded as proforma party for the suit property. But with the transfer of the suit property to the 1st defendant, the jurisdiction of the Maintenance Tribunal to adjudicate upon the claim thereon by the 2nd defendant has been ousted.

7. The plaintiff highlighted these facts in W.P. No. 5211 of 2025 before the Hon'ble High Court. It is tagged with the counter writ petition filed by the 2nd defendant in W.P. No. 7718 of 2025 against the plaintiff. Both the Writ Petitions are posted to 16.04.2025 for further proceedings. The court before passing the order of ad-interim injunction on 28.11.2024 in I.A. No. 2/2024, that the injunction was only to ensure eviction through due process of law. Since the 1st defendant failed to file a

counter, the injunction was made absolute on 02.01.2025. The court also noted that the Maintenance Tribunal's order came later on 18.12.2024. Therefore, the defendants' claim that the plaintiff suppressed the Tribunal's order to mislead the court and obtain the injunction is baseless and cannot be accepted. Further, the 1st defendant is not a senior citizen and not an aggrieved person under section 27 of MWPSA Act. Therefore, he is not entitled to reap any of the reliefs provided in the said Act.

8. Only the 2nd defendant invoked the provisions of the MWPSA Act, claiming the suit property belonged to her and hence for her maintenance, the suit property is required to be retrieved from the possession of the plaintiff and delivered to her. Therefore, on 18.12.2024, when the Maintenance Tribunal has passed the order directing the plaintiff to deliver vacant possession of the suit property to the 2nd defendant, the said property has ceased to be the "property" of senior citizen as defined in Section 2(f) of the Act. It is apparently an order obtained by the 2nd defendant by playing fraud. The 2nd defendant has no locus standi to assail the jurisdiction of competent Civil Court to entertain the above suit for Injunction. The eviction order passed by the Maintenance Tribunal is based on the false depositions made by the defendants. Therefore, the suit property is immuned from provisions of the MWPSA Act. Hence, prays to dismiss the petition with exemplary cost.

Discussion:

9. Heard both side arguments, case records perused carefully. It is to be decided in this petition that, whether this petition is liable to be allowed or not. The petitioner prays to reject the plaint on the ground that, since the plaintiff is directed to deliver the possession of the suit property to the 2nd defendant as per the order passed by the RDO Udhagamandalam / Maintenance Tribunal under Senior Citizen Act dated 18.12.2024, the suit became infructuous, further the suit is barred under section 27 of Senior Citizen Act, the suit lacks merit and bonafide, the pleadings are not in

accordance with Order 6 of the Code of Civil Procedure and the cause of action is vague.

10. On the other hand the respondent submits that, the suit is not barred under section 27 of Senior Citizen Act, as on the date of filing this suit the 2nd defendant is not the title holder of the suit property as the 2nd defendant transferred her right over the suit property to the 1st defendant by executing a settlement deed on 27.06.2024, during the pendency of the proceedings under Senior Citizens Act before the RDO Udhagamandalam/ Maintenance Tribunal. It is further contented by the respondent side, that since the 1st petitioner is not a senior citizen, he cannot claim benefit under section 27 of the Senior Citizen Act.

11. It is further alleged by the respondent side that, the suit is filed only for the limited period until the 1st defendant invokes the civil remedy to take possession under due process of law and hence, the allegation of the petitioner that, the suit is barred by law is not maintainable. It is further, contented by the respondent side that, since the possession of the plaintiff in the suit property is admitted by the defendants and the 1st defendant tried to dispossess the plaintiff from the suit property through illegal means on the strength of the sham and nominal settlement deed, this suit is maintainable under law.

12. Now it is to be decided that, whether the plaint has to be rejected as prayed for or not. As discussed above, the main ground raised by the petitioners for rejection of plaint is that, the suit is barred under section 27 of Senior Citizen Act and since the Maintenance Tribunal Udhagamandalam had passed an order on 18.12.2024 directing the plaintiff to deliver the possession of the suit property to the 2nd defendant and the suit lacks bonafide and cause of action is vague.

13. It is settled proposition of law that, to reject a plaint, the plaint and the documents filed along with the plaint alone to be considered. Hence, the order passed

by the RDO Udhagamandalam / Maintenance Tribunal dated 18.12.2024 is only after filing this suit and hence, the same cannot be considered for rejection of the plaint as prayed by the petitioners in this petition. The said fact can be considered only during the trial of the suit and not for rejection of plaint.

14. Further, the main contention of the petitioners is that, the suit is barred under section 27 of the Senior Citizens Act and hence the plaint has to be rejected on that ground. The learned counsel for the respondent submitted that, the suit is not barred under section 27 of the Senior Citizens Act as during the pendency of the proceedings, the 2nd defendant had executed a settlement deed in favour of the 1st defendant with respect to the suit property and the 1st defendant is not a senior citizen and the suit is filed only for permanent injunction till the dispossession of the plaintiff under due process of law.

15. Before going into the discussion, it will be appropriate to see the contents of the section 27 of the Senior Citizens Act. Section 27 of Senior Citizens Act reads as follows:

Section 27 – Jurisdiction of Civil Courts Barred: No Civil Court shall have jurisdiction in respect of any matter to which any provision of this Act applies and no injunction shall be granted by any Civil Court in respect of anything which is done or intended to be done by or under this Act.

16. Thus, a plain reading of the above section makes it clear that, the Jurisdiction of Civil Court is barred only in respect of matters that are specifically covered under the provisions of the Senior Citizens Act. In the present case, the plaintiff is not seeking any relief under Senior Citizens Act, instead the plaintiff is seeking permanent injunction restraining the defendants from dispossessing the plaintiff from the suit property except under due process of law, the said relief cannot be granted by the Maintenance Tribunal under Senior Citizens Act. Further, it is well

settled proposition of law that, the Civil Courts have jurisdiction to entertain and try all suits of a civil nature, unless their cognizance is expressly or impliedly barred. Section 9 of the Code of Civil Procedure, 1908, reinforces this principle by providing that civil suits except those of which their cognizance is either expressly or impliedly barred.

17. Since the present suit is filed only for permanent injunction restraining the defendants from dispossessing the plaintiff from the suit property except under due process of law, the cause of action for the suit not depends upon any provision of the Senior Citizens Act, the relief claimed in this suit is purely based on civil rights emanating from the possession of the immovable property, accordingly the bar under section 27 of the Senior Citizens Act does not apply to the present proceedings. The suit is therefore maintainable and the plaint is not liable to be rejected on this ground.

18. Further, as argued by the plaintiff side that, since the 2nd defendant settled the suit property in favour of the 1st defendant on 27.06.2024, as on the date of filing the suit the 2nd defendant seized to be the owner of the suit property and hence, the property does not belongs to a senior citizen as the 1st defendant is not a senior citizen. On this score also the bar under section 27 of the Senior Citizens Act will not apply to the present suit.

19. It is further contention of the petitioners that, the suit lacks bonafide and the cause of action is vague and hence the plaint has to be rejected. In this aspect, the plaintiff has contented in his plaint that, he is in the possession of the suit property and the defendants are unlawfully trying to dispossess him from the suit property and hence, the defendants to be restrained from dispossessing the plaintiff from the suit property except under due process of law. Thus, the cause of action in the suit is very clear and the suit is maintainable under law. Hence, the ground raised by the petitioners that, the cause of action is vague and the suit is not bonafide is not acceptable. Hence, the plaint cannot be rejected on the above said grounds also.

20. Thus from the discussions above made, there grounds raised in this petition to reject the plaint in the above suit is not acceptable under law and hence, this court not inclines allow this petition.

Result:

21. *In the result this petition is dismissed without cost.*

This order is dictated to the steno - typist, typed by her in computer, corrected by me and pronounced by me in the open court on this 28th day of August 2025.

**District Munsif,
Udhagamandalam.**

Draft/Fair Order:

I.A.No.01/2025

O.S.No. 85/2024

Date: **28.08.2025**

District Munsif Court,

Udhagamandalam.