

In the Court of District Munsif, Mudukulathur

Present : Ms.J.C.Aparna, B.A, L.L.B.,

District Munsif,

Mudukulathur.

Thursday the 12th day of June 2025

I.A.No.8/2024

in

O.S.No.10/2024

1. Manickam

2. Josephrani

..... Petitioners/Defendants

/VS/

A.Jeyaraj

through his power agent

Arul Joseph David

..... Respondent/Plaintiff

This petition came on 02.06.2025 before this court for a final hearing in the presence of Thiru.Y.T.Ansari, Learned Counsel for the Petitioners/Defendants and Thiru.R.Balaji, Learned Counsel for the Respondent/Plaintiff and upon hearing both sides arguments and upon perusing the material records and having stood over till this day for consideration, this court delivered the following:

ORDER

This petition has been filed under Order 7 Rule 11 of Civil Procedure Code to reject the plaint.

2. The contention of the Petitioners/Defendants in brief:-

The petitioner herein is the 2nd defendant in the main suit. He files this petition for himself and behalf of the 1st defendant. The 1st and 2nd defendants are husband and wife and have acquired the suit property from one Mr.Anthony Udaiyar by way of sale deed dated 02.01.2013 in document No.1/2013 and has been in possession of the same by constructing a house on the suit property. But

since the plaintiffs were interfering with their peaceful possession, they have filed a suit in O.S.No.39/2023 and the same is pending before this court. But the respondent/plaintiff became exparte in that suit and has filed this present suit before this court in respect of the same property. The averments in the plaint are denied to be false by the petitioners/defendants and states that there is no cause of action. It is also stated that there was a criminal proceeding regarding the suit property between the parties and the petitioners have been acquitted from the case. It is also stated that the court fee paid is insufficient and it is not paid on the basis of the guideline value but paid on the basis of a third party affidavit. Hence prays to allow the petition by rejecting the plaint.

3. Brief averments of the Respondent/plaintiff in brief:

The respondent/plaintiff denies the averments in the petition. The petitioner has not stated the specific provisions of O7 R11 under which the plaint is prayed to be rejected. It is stated that since the original owner Mr.Anthony Udaiyar who is the father of the plaintiff had made a settlement deed in favour of the plaintiff in the year 2000, the subsequent sale deed executed in favour of the petitioners/defendants are not valid and the respondent/plaintiff is ready to prove his possession of the suit property with the relevant documents at the time of trial. The petitioners/defendants are encroaching on the suit property. It is further stated that the respondent/plaintiff was not aware of the suit in O.S.No.39/2023 and only came to know about the same from the affidavit filed for the exparte setaside order. The criminal proceedings have no relevance in this civil suit. Hence prays to dismiss the petition.

4. Point for consideration:-

Whether the petition be allowed and the plaint be rejected?

No documents filed on either side. Heard both sides.

5. Answer to the Point:-

5.1. Firstly the main contention put forth by the petitioners/defendants would be that there is already a suit instituted by them in O.S.No.39/2023 as against the respondent/plaintiff in respect of the suit property and the same is pending before this court. Meanwhile the respondent/plaintiff has filed this suit by suppressing the same. But that cannot constitute a ground for rejection of plaint under Order 7 Rule 11. Moreover in the earlier suit the petitioners/defendants herein has filed the suit for permanent Injunction and this present suit is filed by the respondent/plaintiff for the relief of declaration, Recovery of possession, Mandatory Injunction and permanent Injunction as well as for the relief of declaring null and void the sale deed on which the petitioners/defendants rely for their title.

5.2. Secondly the petitioners/defendants deny the cause of action averred in the plaint and also denies the fact that the 1st respondent tried to alienate the suit property in respect of the third parties because the 1st respondent was not residing in India. Also about the criminal proceedings between the parties in C.C.No.109/2023 and its relevance can be only looked into at the time of the trial. Also seeing that both the parties rely on their respective titles by virtue of documents and the other party is trying to or is encroaching on the suit premises, the same can be only ascertained during the trial. Because in this present petition, this court cannot go beyond the averments in the plaint and the documents filed along. There is a definite cause of action as there is clear cloud over the title of the suit properties from the plain reading of the averments in the plaint. It is also well settled law that the plaint can be rejected only for an illusory cause of action and not in case of a false cause of action, because the latter can only be proved through evidence placed in trial. At this stage that cannot be looked into.

5.3. Thirdly, the petitioners/defendants counsel have filed the guideline value for the suit property and from the perusal of the same it is seen that the suit is improperly valued, the respondent/plaintiff has valued the suit property on the basis of a third party affidavit, but on questioning about the same to the respondent counsel, he stated that the plaintiff is ready to rectify the difference in the court fee and to pay the same within the time fixed by the court.

5.4. Next the petitioners/defendants contend that the suit is barred by limitation. Because they were in the possession of the suit property with the knowledge of the respondent/plaintiff as the sale deed was executed by the plaintiff's father in favour of defendants in the year 2013 and the respondent/plaintiff has filed this suit belatedly after limitation period by suppressing the material facts to abuse the process of law. But the respondent/plaintiff in his plaint states that he came to the knowledge of the sale deed executed in favour of the petitioners/defendants in respect of the suit property only in the year 2022. It is well settled law that the plaint can be rejected on the basis of limitation if it appears to be clearly barred by limitation. From perusal of the averments in plaint and the counter, this court feels that in this particular case the question of limitation is a mixed question of law and facts. The plaint cannot be rejected at the outset on this particular fact instead it would be wise to frame a proper issue on limitation and conduct a trial to determine the facts.

5.5. Hence, on the light of the above said discussions, this court comes to a conclusion that the respondent/plaintiff shall rectify the difference in court fee as per the guideline value on or before 23.06.2025 or this court shall reject the plaint for the reason that the relief claimed is under valued.

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

Directly typed by me in my official laptop and formatted by Steno Typist,
corrected and pronounced by me in open court on this 12th day of June 2025.

**District Munsif,
Mudukulathur.**

Both sides witnesses and documents : Nil

**District Munsif,
Mudukulathur.**

