

In the Court of District Munsif, Mudukulathur

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

District Munsif,

Mudukulathur.

Thursday the 22nd day of January 2026

I.A.No.03/2025

in

O.S.No.15/2025

Jeyachandrabose

....Petitioner/ Defendant

Vs

Maral Devakirubai

... Respondent/ Plaintiff

This petition came on 05.01.2026 before this court for a final hearing in the presence of Thiru.A.Mayilvel, Learned Counsel for the Petitioner/ Defendant, Thiru.Y.T.Ansari, Learned Counsel for the Respondent/ Plaintiff and upon hearing both side enquiry 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 and Section 151 of CPC to reject the plaint.

2. The contention of the Petitioner/ Defendant in brief:-

The petitioner is the defendant in the main suit. A suit in OS No 34/1998 was already filed for the relief of declaration and permanent injunction against this plaintiff and one other in respect of the suit property. The said suit was decreed against this petitioner and an appeal in AS No. 84/2006 was preferred

and the trial court's judgment was upheld. A second appeal was preferred in SA(MD) No. 1056/2008 and the same was partly allowed granting the relief of permanent injunction in this petitioner's favour. The respondent preferred a review in REV.APLC(MD) No. 7/2010 before the Honourable Madurai Bench of Madras High Court and the same was dismissed. All these facts have been suppressed and this present suit is barred by res judicata. Hence prays to dismiss the petition.

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

The respondent denies the averments in the petition. The suit property in the OS No 34/1998 is no way connected to this suit property. The survey numbers for the properties are the same. While drafting the plaint, the four boundaries were stated incorrectly. The respondent is ready to rectify the same. Hence prays to dismiss the petition with costs.

4. Point for consideration:-

Whether the petition be allowed and the relief be granted as prayed for?

Heard Both sides. On the side of Petitioner Ex.P1, P2 were marked. On the side of respondent Ex.R1, R2 were marked.

5. Answer to the Point:-

5.1. The learned counsel for the petitioner/defendant submits that a previous suit in OS No 34/1998 was filed against this respondent/plaintiff and one other. The said suit was decreed against this petitioner/defendant and an appeal in AS No. 84/2006 was preferred and the trial court's judgment was upheld. A second appeal was preferred in SA(MD) No. 1056/2008 and the same was partly allowed granting the relief of permanent injunction in this petitioner's favour. The respondent/plaintiff preferred a review in REV.APLC(MD) No. 7/2010 before the Honourable Madurai Bench of Madras High Court and

the same was dismissed. All these facts have been suppressed and this present suit is barred by res judicata.

5.2. Whereas the counsel for the respondent/plaintiff states that the suit property in the OS No 34/1998 is no way connected to this suit property. The survey numbers for the properties are the same. While drafting the plaint, the four boundaries were stated incorrectly. The extent of the property also differs from that of the schedule in OS No 34/1998.

5.3. Heard both sides. Perused available records. The ground on which the petitioner/defendant seeks to reject the plaint is that the current suit is barred by res judicata since there was a previous suit in OS No. 34/1998 and the same was decreed partly in the petitioner's favour in the second appeal. The petitioner/defendant has also relied upon documents to prove his stand. It is well settled law that res judicata is not a ground for rejecting the plaint. The *Honourable Supreme Court of India in Civil Appeal No.5841/2023 (Keshav Sood Vs Kirti Pradeep Sood & others)* has held that, "*apart from the pleadings in the earlier suit, several other documents relied upon by the appellant in their application under Rule 11 of Order VII of CPC needed to be considered to decide the issue of res judicata.*" It was also further emphasised that, "*the Court can only consider the averments made in the plaint and, at most, the documents produced along with the plaint. The defense presented by a defendant and the documents they rely upon cannot be taken into account while deciding such an application.*" In the case on hand the petitioner/defendant relies upon the judgment and decree of the trial court and the appellate courts to invoke the ground of Res Judicata. Since the issue of Res Judicata involves a detailed perusal of pleadings and judgments of the trial and appellate courts, The issue of Res Judicata can only be adjudicated in trial by framing appropriate issues. Hence in the light of the said discussions, this petition is dismissed and no order as to costs.

6. In the result, this petition is dismissed. No order as to costs.

Directly typed by me in my official laptop and formatted by Steno Typist, corrected and pronounced by me in open court on this 22nd day of January 2026.

**District Munsif,
Mudukulathur.**

Petitioner side witness: Nil

Petitioner side Documents:

Ex.P1	30.09.2009	Order of the Hon'ble Madurai Bench of Madras High Court in S.A No.1056/2008 and MP(MD)No.1/2008-Xerox copy
Ex.P2	08.03.2022	Order of the Hon'ble Madurai Bench of Madras High Court in REV.APLC(MD) No.7/2010 in S.A(MD) No.1056/2008

Respondent side witness: Nil

Respondent side Documents:

Ex.R1	13.06.2025	Patta for the suit property in the name of Kamalam-Online copy
Ex.R2	-	A Resister for the suit property in the name of Kamalam- Online copy
Ex.R3	-	FMB for the Suit Property (Nos.2)- Online copy
Ex.R4	25.11.2024	Filed Measurement application and acknowledgment-Xerox copy

**District Munsif,
Mudukulathur.**