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**IN THE COURT OF THE SPECIAL SUBORDINATE JUDGE FOR  
L.A.O.P. CASES, ARAKKONAM, RANIPET DISTRICT.**

PRESENT : **THIRU. G. YUVARAJ, M.A., M.L.,**  
SPECIAL SUBORDINATE JUDGE,  
SPECIAL SUB COURT FOR L.A.O.P. CASES,  
ARAKKONAM.

Saturday, the 18<sup>th</sup> day of April, Two Thousand Twenty Six

**I.A. No. 3 of 2025**

**in**

**O.S. No. 98 of 2026**

**(CNR. No. TN-RP-07-000-110-2026)**

**(Arakkonam Sub Court O.S. No. 162 of 2025)**

**(Arakkonam District Munsif Court O.S. No. 63 of 2023)**

1. M. Purushothaman
2. P. Bhavani
3. P. Dhayanithi .. Petitioners / Defendants

**Vs.**

1. Selvi. G. Hema
2. Minor G. Ilakkiya
3. R. Jansi Rani .. Respondents / Plaintiffs

This petition came up for final hearing before me on 06.04.2026 in the presence of Mr. P.N. Sreenivasan, Advocate for the Petitioners / Defendants and Mr. S. Venkatesan and R. Sugan, Advocates for the Respondents / Plaintiffs and upon hearing the arguments on either side, and upon perusing the materials records, and having stood over till this day for consideration, this date, this court delivers the following;



## **ORDER**

The Petitioners / Defendants have filed this petition u/o. 7, Rule 11 (d) of CPC praying to reject the plaint as barred by Law.

2. **Brief averments made in the petition and affidavit :** The 1<sup>st</sup> Petitioner / 1<sup>st</sup> Defendant in his affidavit had stated that, the 3<sup>rd</sup> Respondent was the wife of Late. Gajendran. The said Gajendran is the younger brother of hte Petitionr through an issue of his step mother Indraniyammal, who is the 3<sup>rd</sup> wife of his late father Munusamy Reddy. The said Mususamy Reddy partially partitioned the ancestral properties upon his all the three wife's children through an unregistered partition deed dt. 27.06.1991 and kept him with a larger part upon his share. On 11.03.2000, the said Munusamy Reddy executed a Will over larger pat of his share in favour of his last and affectionate younger son, the said Gajendran and thereby he became land-lord of that village through the partial partition with the same speed he became a drunkard and simultaneously he died on 11.01.2018 and left out his estate with two daughters 1<sup>st</sup> and 2<sup>nd</sup> Plaintiffs along with his widowed mother Indirani Ammal. Before his death, on 03.11.2003, the suit property to an extent of 1744 sq. feet comprised in Survey No. 255/3 has sold out to him through an unregistered sale deed and delivered possession on the same date and the 3<sup>rd</sup> Plaintiff aware of the said fact. Since she is trying more vigorous to achieve to get the suit property in her favour only on the strength of sale deed is unregistered, thereby she is suppressing all the facts and upon her second marriage after death of his brother to one, who is 1<sup>st</sup> witness of the said settlement deed dt. 08.07.2022. It is well known to all of his relatives and also the entire people of his village and the same may be proved when the trial comes in O.S. No. 252/2023 on the file of the Sub Court, Arakkonam. The settlement



deed dt. 08.07.2022 has executed in abuse of process of laws and the right and title of the two executors will not pass and transferred thereto upon the Plaintiffs 1 and 2. As such, the Plaintiffs 1 and 2 are seeking declaration of right and title of the entire documented properties including the suit property is not maintainable and hence, this court has to invoke its power to reject the plaint u/o. 7, Rule 11 (d) and also u/s. 44 of T.P. Act, 1882. In a fundamental principle of law of alienation, that, when once a partition has taken place in a family and that is acted upon, even if it is an oral one and no question of any release of any right can take place. Such allotted portion can only be alienated by settlement or any alienation known to the Transfer of Property Act and not by way of any release of any right in it. Hence, the settlement deed dt. 08.07.2022 has no locus standi to uphold the right and title of the Plaintiffs 1 and 2. Since the legal rights of the settlers has not been passed through this settlement deed dt. 08.07.2022 as in such the Plaintiffs 1 and 2 were not the absolute owners of the suit property and the peaceful possession of the suit property is with the Petitioners / Defendants from the year 2003 on the strength of the unregistered sale deed dt. 11.11.2003. The Sub Court has taken on file of O.S. No. 252/2023 on the strength of the exclusive long standing possession of the Petitioners / Defendants over the suit property and also the contents of the deed were property mentioned upon the possession as well as the delivery of the suit property. Tmt. Indirani Ammal, the widowed mother of Late. Gajendran is a necessary party to the suit, since, she had executed the said settlement deed dt. 08.07.2022 along with the 3<sup>rd</sup> Plaintiff in favour of her grand-daughters, i.e., the Plaintiffs 1 and 2. An F.I.R. waws filed against the Petitioners / Defendants' family on 29.07.2023 by Nemili Police based on the false complaint filed by the 3<sup>rd</sup> Plaintiff with the higher officers' pressure, but, when the subordinate police officers came to know the



mistake of fact through the spot enquiry, no arrest was made out till date. The relief claimed by the Plaintiffs is not maintainable on the strength of the settlement deed dt. 08.07.2022 and the entire statement of pleadings were spelled with suppression of facts and the plaintiff has not filed in proper, which is not maintainable and hence prayed to reject the plaint as barred by law.

3. **Brief averments made in the counter filed by the 1<sup>st</sup> Respondent and adopted by the Respondents 2 and 3 :**

This petition u/o. 7, Rule 11 (d) has been filed without understanding section 44 and Section 54 of Transfer of Property Act, since both the sections does not restrict any alienation or sale or gift or settlement as projected by the Petitioners herein. The Petitioners are third parties to the deceased Gajendran and they are not co-owners or co-sharers of deceased Gajendran, because the suit property is inclusive of Schedule 'C' property in the Will dt. 11.03.2000 bequeathed by his father Late. Munusamy Reddy as such 'A' schedule in the said Will bequeathed to 1<sup>st</sup> Defendant by his father Munusamy Reddy. The issues raised by the Petitioners are triable one and the same can be proved by full-pledged trial only and as such the suit cannot be rejected u/o. 7, Rule 11 (d) of CPC as claimed by the Petitioners.

a) Whether Section 44 of Transfer of Property Act barred co-sharer or co-sharers to transfer or alienate his / her / their share in the undivided family property to other co-sharers or to any third party or not?

b) Whether the suit is barred by Section 44 of Transfer of Property Act which permit to alienate or transfer of undivided share of a co-sharer as claimed by the Petitioners or not?



c) Whether the unregistered sale deed dt. 03.11.2003 claimed by the Petitioners confers title to the Petitioners or not?

d) Whether Section 54 of Transfer of Property Act which mandates registration of sale with regard to property having value of Rs.100 or more invalidates the unregistered sale deed dt. 03.11.2003 or not?

e) Whether Section 17 (b) of Registration Act which mandates compulsory registration of documents with regard to property having value of Rs.100/- or more invalidates the alleged unregistered sale deed dt. 03.11.2003 or not?

f) Whether the Petitioners seek rejection of plaint on the ground of unregistered sale deed dt. 03.11.2003 alleged to be executed by the deceased Gajendran or not?

4. All these issues raised by the Petitioners can be decided only at the end of the trial and hence at this stage, this petition is not maintainable. It is further stated in the counter that, the said Indirani Ammal is not a necessary party to the suit and she can be produced as one of the Plaintiffs' side witness to substantiate her execution of settlement deed dt. 08.07.2002. It is well settled law that a plaint cannot be rejected on the ground of jon-joinder of parties. Therefore, prayed to dismiss the petition.

5. ***Now the point for consideration is; whether the petition filed by the Petitioners / Defendants to reject the plaint under order 7, Rule 11 (d) is to be allowed or not?***

6. No oral and documentary evidences have been adduced on either side.



7. The learned counsel for the Petitioners / Defendants contended by reiterating the averments made in the affidavit and prayed to allow the petition. The written arguments filed by the learned counsel for the Petitioners / Defendants are also perused and considered. The learned counsel for the Petitioners has also relied on the following judgments.

**1) 2010 (1) Civ.C.R. 610, Rajasthan, Abdul Fazal Vs. M/s. S.J. Marble Mines and others.**

**2) 2011 (3) Civ.C.R. 499, Delhi, Texem Engineering Vs. Texcomash Export.**

**3) 2015 (1) Civ.C.R. 761, Karnataka, Nagaraja @ Nagarajappa and others Vs. Jayalakshamma and another.**

8. The learned counsel for the Respondents / Plaintiffs contended by reiterating the averments made in the counter and prayed to dismiss the petition.

9. Both side rival contentions are heard carefully. Perused the records.

10. On careful perusal of the records, it comes to know that, Respondents / Plaintiffs have filed the above suit for the relief of declaration of title of the Plaintiffs 1 and 2 over the suit property and for consequential permanent injunction, restraining the Defendants, their men, agents and servants from in any way interfering with the Plaintiffs' peaceful possession and enjoyment of the suit property and for another relief of permanent injunction, restraining the Defendants, their men, agents and servants from any manner claiming through them from alienating or encumbering the suit property based on the forged /



fabricated / bogus document created by the 1<sup>st</sup> defendant in respect of the suit property.

11. The Petitioners herein, who are the Defendants in the above suit have filed this petition under order 7, Rule 11 (d) CPC praying to reject the plaint as the suit is barred by law. Therefore, here it is relevant to refer the definition of Rule 11 (d) of Order 7, which reads as follows;

**Order 7 :**

**Rule 11 Rejection of plaint : The plaint shall be rejected in the following cases :**

- (a) to (c) : .....
- (d) : *where the suit appears from the statement in the plaint to be barred by any law;*

As the Petitioners / Defendants have filed this petition under Order 7, Rule 11 (d) of CPC, it has to be seen that, whether the suit appears from the statement in the plaint to be barred by any law. Therefore, for rejecting the plaint under order 7, Rule 11 (d) CPC, the court has to go through the averments made in the plaint and on such reading of the plaint, if it is seen that the suit is barred by any law, then the plaint can be rejected.

12. In this case, it is the contention of the Plaintiff that, the suit properties and larger extent of properties were belonged to one Munusamy Reddy and he had executed a registered Will dt. 11.03.2000 in favour of his sons Gajendran and



another son namely, Purusothaman, that is, 1<sup>st</sup> Defendant and the said Munusamy Reddy was died on 12.02.2001 and after his death, the said Gejendiran has got the 'C' schedule properties mentioned in the said Will and based on the said Will, the said Gajendiran had got the suit property and other property and the said Gajendiran was died on 11.01.2018 leaving behind him the Plaintiffs and his mother Tmt. Indirani Ammal as his legal heirs and thereafter, on 08.07.2022, the 3<sup>rd</sup> Plaintiff and the said Indirani Ammal have executed a registered settlement deed in favour of the Plaintiffs 1 and 2 and thereby, the Plaintiffs 1 and 2 are the absolute owners of the suit property and based on some forged documents, the defendants are disputing the title of the Plaintiffs and also causing interference to the Plaintiffs' peaceful possession and enjoyment of the suit property. These are the main contention of the plaintiffs to trace their title over the suit properties. While the averments of the Respondents / Plaintiffs are being so, it is the duty of the Respondents / Plaintiffs to prove their contention during the trial. Therefore, from the statement in the plaint, this court is unable to find anything as to which law would bar the suit.

13. The learned counsel for the Petitioners / Defendants contended that, settlement deed dt. 08.07.2022 has been executed in abuse of process of law and the right and title of the two executors will not pass to the Plaintiffs 1 and 2 and there is a bar under section 44 of Transfer of Property Act and hence the plaint is to be rejected. It is also the contention of the Petitioners in para 9 of the affidavit that, the deceased Gajendran had sold the suit property to the 1<sup>st</sup> Petitioner / 1<sup>st</sup> Defendant through an unregistered sale deed dt. 11.11.2003 and he is the owner of the suit property and in respect of the same, he has also filed a suit in O.S. No. 252/2023 on the file of the Sub Court, Arakkonam.



14. As held above, from the averments made in the plaint, this court is unable to find anything that the plaint is barred by any law, much less, Section 44 of Transfer of Property Act. Even Section 44 of Transfer of Property Act does not prohibit a transfer of property by one co-sharer to any other third party. The contention of the Petitioners that, the settlement deed executed in favour of the Plaintiffs 1 and 2 is valid or not and the alleged unregistered sale deed executed by the deceased Gajendran in favour of the 1<sup>st</sup> Petitioner is valid or not are all the matter for adjudication at the end of the trial. Therefore, based on the averments and allegations made in the affidavit filed in support of this petition, the plaint cannot be rejected, as there is no any ground for rejection under Rule 11 (d) of Order 7 of CPC.

15. The Hon'ble Supreme Court in the judgment reported in *Popat and Kotecha Property Vs. State Bank of India Staff Association, 2005(4) CTC 489(SC)* held that, Clause (d) of Order VII, Rule 7 speaks of suit, as appears from the statement in the plaint to be barred by any law. Disputed questions cannot be decided at the time of considering an application filed under Order VII Rule 11 CPC. Clause (d) of Rule 11 of Order VII applies in those cases only where the statement made by the plaintiff in the plaint, without any doubt or dispute shows that the suit is barred by any law in force. Following the dictum laid down in the said judgment, from the averments made in the plaint, the plaint cannot be rejected under Order 7, Rule 11 (d) CPC. Even as per the judgments relied on by the Petitioners, the plaint can be rejected if on reading the statements made in the plaint, the plaint is barred by any law. Whereas, in this case, in the plaint averments, there is no such bar in entertaining this suit. Therefore, there is no any merits in this petition and hence this court is not

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inclined to allow this petition and the petition is liable to dismissed with cost of the Respondents / Plaintiffs.

16. IN THE RESULT, the petition filed by the Petitioners / Defendants to reject the plaint u/o. 7, Rule 11 (d) of CPC is dismissed as devoid of merits with cost of the Respondents / Plaintiffs.

This order is typed by me in my Laptop, corrected and pronounced by me in the open court on this the 18<sup>th</sup> day of April 2026.

**Special Subordinate Judge,**  
Special Sub Court for L.A.O.P. Cases,  
Arakkonam.

**Annexure :** Nil

**Special Subordinate Judge,**  
Special Sub Court for L.A.O.P. Cases,  
Arakkonam.

S.S.C. (L.A.O.P.), ARAKKONAM,  
DRAFT / FAIR ORDER  
in I.A. No. 2/2025 in  
O.S. No. 98/2026  
Dated : 18.04.2026