

IN THE COURT OF DISTRICT MUNSIF, METTUR, SALEM DISTRICT

Present: **Thiru. M.Selvam, B.A., B.L.,**

District Munsif, Mettur

Tuesday, this the 07th day of July 2026

I.A.No. 04 of 2025

in

O.S. No. 122 of 2023

(CNR No. TNMD0A-000923-2023)

Ramasamy

...Petitioner/1st Defendant

-Vs-

1. Mentally Ill Health Person and Physically
Challenged Person Mr. Shanmuga Priyan rep by his
Guardian Next Friend
Mr. Shakthivel Murugan

...1st Respondent/Plaintiff

2. Naga laxmi

3. Purusothaman

... Respondents 2 and 3/Defendants 2 and 3

This petition is heard in the presence of Mr. M. Nandakumar., B.A., L.L.B., the Learned counsel for the Petitioner/1st Defendant and Mr. V. Asaithambi., M.Com., B.L., the Learned counsel for the 1st Respondent/Plaintiff and Mr. V. Ranadev., B.A., B.L., the Learned counsel for the 2nd and 3rd Respondent/Defendants 2 and 3. Enquiry heard and having stood over for my consideration till this day, this court delivered the following,

ORDER

Petition filed by the Petitioner/1st Defendant under Order 7 Rule 11 of CPC to reject the plaint in O.S.No. 122 of 2023 on the file of this court.

1. Brief facts in the petition filed by the petitioner is as follows:

1.1. The petitioner is the 1st defendant in the original suit. The 1st respondent/plaintiff had filed an application in I.A.No. 01 of 2024 to receive reply statement and additional documents and the same was allowed by this court on 12.08.2025. In the said reply statement, it was clearly averred that the mother of the 1st respondent/plaintiff had issued a public notice in the Thinathanthi daily newspaper on 03.09.1986 after came to know that the Seetharaman was attempting to sell the suit property and further, she had lodged a complaint on 07.10.1986 before the Superintendent of Police alleging she was assaulted by the said Seetharaman.

1.2. The statement of reply filed by the 1st respondent/plaintiff clearly presumes the knowledge of the future encumbrance by the plaintiff and his mother. The plaintiff and his mother had given consent deed in document no. 265/1986 dated 28.02.1996 for the sale deed in document no 08/1993 dated 08.01.1993. Hence, it is clear cut case of Estoppel. The said consent deed was neither admitted nor refused by the 1st respondent/plaintiff

1.3. The 1st respondent/plaintiff had categorically stated that the above consent deed had not been executed by the 1st respondent/plaintiff and his mother and it is not reflected in the EC. The said EC filed by the 1st respondent/plaintiff as document no. 04 shows that it was applied on 04.01.2024 and further it does not holds the entries with regard to the gift settlement deed in document no. 580/1983 executed in favour of the 1st respondent/plaintiff.

1.4. The 1st respondent/plaintiff's mother, who stood as a guardian as per the settlement deed had not taken any steps to cancel the same till her life time. The sale deeds challenged by the 1st respondent/plaintiff are executed by the real owner for valuable consideration and the respective persons were also in

possession and enjoyment of the suit property. The 1st respondent/plaintiff or his mother had failed to file the suit within the limitation period that is within three years.

1.5. The 1st respondent/plaintiff's mother is a well educated nurse working in the Government Primary Hospital had chosen to give a complaint before the Karumalaikoodal Police Station on 07.10.1986 against her husband. The 1st respondent/plaintiff had also kept mum till the lifetime of his father and mother. Now, with false averments had suppressed the earlier District Registrar Proceedings dated 17.06.2022 where he had challenged the said sale deeds and had failed in his attempt and now chosen to file this vexatious suit. The averments in the plaint pleadings is also contradictory. There is also no cause of action for the suit. Though in the pleadings it was averred that the 1st respondent/plaintiff is constrained to file the suit for declaration of title and for delivery of possession, no such prayer is included therein. Hence, this petition has to be allowed and the plaint has to be rejected.

2. Brief facts in the counter filed by the 1st respondent/plaintiff is as follows:

2.1. The statement of the reply filed by the 1st respondent/plaintiff does not admit the registration of document. The 1st respondent/plaintiff's mother was under strong belief that the gift settlement deed executed by the late. Seetharaman in favour of the 1st respondent/plaintiff could not be canceled without the knowledge of the donee. As well settled law once the gift is always the gift and it cannot be revoked by the donor without the consent of the donee. If the donor is minor, innocent and has other legal disability, then the consent of the natural guardian or legal guardian is must to cancel the gift deed by the doner.

2.2. The said legal aspect was failed to be followed by the Late Seetharaman and failed to meet the conditions under section 126 of the transfer of property act. Once it is held that the gift deed validly executed resulting in the absolute transfer of title in favour of the 1st respondent/plaintiff, the same is not liable to be revoked and as such the revocation deed is meaningless especially for the purpose of calculating the period of limitation for instituting the suit. It was also observed in the case of N. Thajudeen vs Tamilnadu Kadhi and Village industries Board.

2.3. In a suit for declaration with further relief, the limitation would be governed by the article governing the suit for such further relief, in fact, a suit for declaration of title to the immovable property would not be barred so long as the right to such property continuous and subsists. When such right is subsist, the relief for declaration would of be no limitation for such suit. The same was also observed in the case of C. Mohammed Yunus vs Syed Unnisha.

2.4. The alleged document no. 265/1996 was invalid, because the 1st respondent/plaintiff is mentally ill person and that his natural guardian, his mother have no right to alienate the suit property without court permission. The mother of the 1st respondent/plaintiff was expired on 22.11.2015. After the demise, the legal guardian was appointed by district committee on 08.10.2021. Hence, this suit is filed by the legal guardian in the year 2023. Thereby, this suit is not barred by law of limitation. They had also obtained the sale deeds through online encumbrance certificate on 09.09.2021 and 04.08.2021. After the appointment of the guardian, he had verified documents regarding the suit property and filed this suit only for the purpose to safe guard the 1st respondent/plaintiff's property. Hence, this petition is liable to be dismissed.

3. The respondents 2 and 3/defendants 2 and 3 had endorsed as no objection to this petition.

4. No oral and documentary evidence on either side.

5. Point For Consideration:-

(i) Whether the plaint in O.S.No. 122 of 2023 on the file of this court is liable to be rejected under Order 7 Rule 11 CPC ?

6. Submissions :

(i) The learned counsel for the petitioner/1st defendant had submitted that the 1st respondent/plaintiff is seeking the relief of declaration of the cancellation deed in document no. 894/1986 as null and void executed in respect of the settlement deed in document no. 580/1983, in which the mother of the 1st respondent/plaintiff had stood as a guardian in respect of him, since he was unsound mind. But the mother of the 1st respondent/plaintiff had herself averred about the execution of the said cancellation deed in the public notice dated 03.09.1986 and in her complaint dated 07.10.1986. Therefore, it is clear that the 1st respondent/plaintiff and her mother had got the knowledge of the said cancellation even in the year of 1986 and therefore, this suit is barred by law of limitation. Further, the cause of action pleaded in the plaint is illusory and was cleverly drafted in order to create a right to sue on behalf of the 1st respondent/plaintiff, therefore, the suit itself is liable to be rejected. The learned counsel for the petitioner/1st defendant had further submitted that the mother of the 1st respondent/plaintiff had already executed a consent deed on 28.02.1993 itself in favour of the petitioner/1st defendant in respect of the sale of the suit property in document no. 8/1993, which was also under challenge herein.

Further, there was no pleadings in the plaint averments that the 1st respondent/plaintiff is of unsound mind continuously from the date of settlement deed dated 18.11.1983 or cancellation deed dated 20.09.1986 to till date of filing the suit. The documents filed by the 1st respondent/plaintiff shows that only in the year 2017, he was identified as under legal disability. In respect of his contention, the learned counsel for the petitioner/1st defendant had relied on certain judgments in his written arguments.

(ii) Per Contra, the learned counsel for the 1st respondent/plaintiff had submitted that once a gift is always a gift and since, the property is absolutely transferred through the gift settlement deed, it cannot be revoked by the donor and the guardian of the 1st respondent/plaintiff had applied for the encumbrance certificate of the suit property only on 09.09.2021 and 04.08.2021 and came to know about the unilateral cancellation of the gift settlement deed and had filed the suit in the year 2023 and thereby, the suit is filed within the prescribed period of limitation. In support of his contention, the learned counsel for the 1st respondent/plaintiff had relied on the judgment of N. Thajudeen vs Tamil Nadu Kadhi and Village Industries Board reported in 2024 INSC 817 and C. Mohammed Yunus vs Syed Unnisha and others reported in AIR 1961 SC 808.

(iii) The learned counsel for the respondents 2 and 3/defendants 2 and 3 had relied on the judgment of Our Hon'ble Madras High Court in the case of S. Gomathi and another vs S. Balasubramanian in S.A.No. 854 of 2023 and submitted that the limitation to set-aside the instrument governs under article 59 of the limitation act and the suit has to be filed within 3 years from the date of knowledge. But since, the suit is filed beyond the said period of 3 years, the same is liable to be rejected.

7. Discussions:

7.1. Both side rival submission heard and perused the pleadings and materials on record. The original suit was filed by the next friend/guardian of the 1st respondent/plaintiff representing the 1st respondent/plaintiff, since he is of legal disability of unsound mind, for the relief of declaration to declare that the cancellation deed in document no. 894/1986 and the sale deed in document no. 8/1993 and the sale deed in document no. 678/2009 and the sale deed in document no. 1433/2014 are all null and void and for awarding cost. It is not in dispute that the 1st respondent/plaintiff is of unsound mind and the brother of the 1st respondent/plaintiff namely Sakthivel Murugan was representing him as next friend/guardian and he was also appointed as a legal guardian as per section 14 of the National Trust Act, 1999, which is evident through the certificate of appointment of legal guardian, which is filed as plaint document no. 06.

7.2. It is the case of the 1st respondent/plaintiff as per the plaint averments that the suit properties originally belonged to the 1st respondent/plaintiff as per the registered gift settlement deed in document no. 580/1983 executed by his father namely Seethraman and the same was cancelled by the said Seetharaman on 26.09.1986 in document no. 894/1986 and had sold the same to the 3rd respondent/3rd defendant vide a registered sale deed in document no. 8/1993 and who inturn sold the same in favour of the petitioner/1st defendant and 2nd respondent/2nd defendant vide a sale deed in document no. 09.03.2009. Then the 2nd respondent/2nd defendant had executed a sale deed in document no. 1433/2014 in favour of the petitioner/1st defendant. The 1st respondent/plaintiff had came to know about the same only on getting certified copies of all the documents regarding the suit property on 09.09.2021 and 04.08.2021. The

petitioner/1st defendant and the respondents 2 and 3/defendants 2 and 3 are utter strangers to the suit property and the petitioner/1st defendant is not entitled to claim full rights by virtue of adverse possession and as the petitioner/1st defendant is disputing the title of the 1st respondent/plaintiff, he had constrained to file the suit for the relief of declaration of title and for delivery of possession.

7.3. The foremost contention of the petitioner/1st defendant is that the mother of the 1st respondent/plaintiff had attained the knowledge of the cancellation deed in document no. 894/1986, when she had issued a public notice on 03.09.1986 in the Thina Thanthi daily news paper and during the complaint lodged by her on 07.10.1986. The 1st respondent/plaintiff had also pleaded about the issuance of the said public notice and the lodging of complaint by her mother in his reply statement dated 15.06.2021. The public notice dated 03.09.1986 was filed as document no. 01 along with the reply statement. On perusal of the same, it shows that in apprehension that the suit property would be sold to third parties by the father of the 1st respondent/plaintiff namely Seetharaman, who had executed the gift settlement deed in document no. 580/1983 in favour of the 1st respondent/plaintiff, the mother of the 1st respondent/plaintiff had seems to have issued the said public notice. The said public notice is also seems to be issued on 03.09.1986 i.e) before execution of the cancellation deed dated 20.09.1986.

7.4. The document no. 02 filed along with the reply statement is the complaint lodged by the 1st respondent/plaintiff's mother dated 07.10.1986. On perusal of the same also, there is no specific averments that the 1st respondent/plaintiff's mother had attained knowledge about the cancellation

deed in document no. 894/1986 dated 20.09.1986. Therefore, the contention of the petitioner/1st defendant that it can be clearly presumed that the 1st respondent/plaintiff and her mother had already attained knowledge of the said cancellation deed are all not having any considerable force.

7.5. Even assuming, if the mother of the 1st respondent/plaintiff had attained the knowledge of the said cancellation deed, then it would not affect the right to sue of the 1st respondent/plaintiff, who was alleged to be under legal disability of unsound mind. Further, there was a specific exemption to the person under legal disability with regard to the institution of the suit or making an application provided under section 6 of the limitation act, 1963, which reads as follows,

Section 6 : Legal disability.—

(1) Where a person entitled to institute a suit or make an application for the execution of a decree is, at the time from which the prescribed period is to be reckoned, a minor or insane, or an idiot, he may institute the suit or make the application within the same period after the disability has ceased, as would otherwise have been allowed from the time specified there for in the third column of the Schedule.

(2) Where such person is, at the time from which the prescribed period is to be reckoned, affected by two such disabilities, or where, before his disability has ceased, he is affected by another disability, he may institute the suit or make the application within the same period after both disabilities have ceased, as would otherwise have been allowed from the time so specified.

(3) Where the disability continues up to the death of that person, his legal representative may institute the suit or make the application within the same period after the death, as would otherwise have been allowed from the time so specified.

(4) Where the legal representative referred to in sub-section (3) is, at the date of the death of the person whom he represents, affected by any such disability, the rules contained sub-sections (1) and (2) shall apply.

(5) Where a person under disability dies after the disability ceases but within the period allowed to him under this section, his legal representative may institute the suit or make the

application within the same period after the death, as would otherwise have been available to that person had he not died.

On perusal of the above provision of law, it is clear that a person who is suffering from continuous legal disability has right to institute a suit within the prescribed period of limitation after his disability has ceased or if the disability continues till his demise, then his legal representatives could also file a suit within the same prescribed period of limitation after his death.

7.6. In this present case on hand, as already discussed supra, the 1st respondent/plaintiff was being represented by his next friend/legal guardian appointed under the National Trust act, 1999, which is also evident through the plaint document no. 09, which is certificate of appointment of legal guardian issued under section 14 of the said act dated 08.10.2021. In the plaint document no. 01, which is the gift settlement deed dated 18.11.1983, it was recited that the 1st respondent/plaintiff is minor and affected from poliomyelitis. Further, in the complaint dated 07.10.1986 lodged by the 1st respondent/mother, it was averred that the 1st respondent/plaintiff is only under physically disability. There was no averments in the said gift settlement deed dated 18.11.1983 or in the complaint dated 07.10.1986 that the 1st respondent/plaintiff is a person of unsound mind. There was also no pleadings in the plaint averments that the 1st respondent/defendant is under the legal disability of unsound mind continuously from the date of execution of the gift settlement deed dated 18.11.1993 or the cancellation deed dated 20.09.1986, which was under challenge herein to till the date of filing this suit in the year 2023, in order to raise a cause of action to file the suit by representing the 1st respondent/plaintiff. The plaint document no. 13, which is the disability certificate showing that the 1st respondent/plaintiff is of unsound mind is seems to be issued on examining him only on 15.02.2017.

7.7. In the plaint pleadings, it was averred that the 1st respondent/plaintiff had come to know about the cancellation deed and all subsequent encumbrance when he had applied for certified copies of all documents regarding the suit property on 09.09.2021 and 04.08.2021. As already discussed supra, there was no pleadings in the plaint averments that the 1st respondent/plaintiff is in continuous legal disability from the date of execution of the gift settlement deed dated 18.11.1983 or the cancellation deed dated 20.09.1986, which was under challenge herein to till the date of filing this suit in the year 2023. Further, as per the plaint pleadings, admittedly the suit property is not in possession of the 1st respondent/plaintiff. The gift settlement deed is executed by the father of the 1st respondent/plaintiff in document no. 580/1983 is on 18.11.1983 itself, wherein the mother of the 1st respondent/plaintiff namely Chinnammal was stood as a guardian for him. The said Chinnammal was died only on 22.11.2015, which is evident through the plaint document no. 11. But there was no averments in the plaint, why the present next friend/guardian or the 1st respondent/plaintiff's mother, who stood as a guardian in the gift settlement deed dated 18.11.1983 had not taken any steps till filing of this suit in the year 2023. Further, there was no averments in the plaint pleading under what circumstances it made them to apply for the certified copies of the documents only in the year 2021 regarding the suit property, for which the 1st respondent/plaintiff was not at all given with possession and whereas, the gift settlement deed is executed in his favour as early as on 18.11.1983.

7.8. The reason that the present next friend/guardian had obtained the certificate of appointment of legal guardian only on 08.10.2021 is also not having substantial strength. Because, even before obtaining the said certificate, the certified copies of the documents with regard to the suit property was obtained

by them on 09.09.2021 and 04.08.2021. Therefore, it is clear, that though the certified copies of documents obtained on 09.09.2021 and 04.08.2021 is filed along with the plaint, the said cause of action pleaded in the plaint averments that the 1st respondent/plaintiff had came to know about the cancellation of the gift settlement deed and the subsequent sale deeds only on getting the certified copies of the suit property on 09.09.2021 and 04.08.2021 are all to create a illusion of a cause of action and in order to create a right to sue on behalf of the 1st respondent/plaintiff, who is of adjudged to be under legal disability, that too, only from the year 2017.

7.9. In this regard, the learned counsel for the petitioner/ 1st defendant had relied on the observation of **Our Hon'ble Supreme Court** in the case of **T. Arivandandam vs T. V. Sathaypal and another** reported in **1977 (4) SCC 467**, wherein it was held that if on a meaningful-nor formal-reading of the plaint, if it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, then the courts should exercise the power under Order VII rule 11 C.P.C. taking care to see that the ground mentioned therein is fulfilled and if clear drafting has created the illusion of a cause of action, nip it in the bud at the first hearing. The relied judgment squarely applicable to the present case on hand. The other judgments relied by the learned counsel for the petitioner and the respondents are all with regard to the point of limitation. But, this petition is decided specifically on scope of cause of action averred in the plaint. Therefore, the said judgments would not be applicable to the present case.

7.10. Further, though there was a specific averments in the plaint pleadings, that the petitioner/1st defendant is disputing the title of the 1st respondent/plaintiff and also refusing to deliver the possession and as such, there

was a specific pleadings in the plaint that he had sought for the relief of declaration of title and for recovery of possession, admittedly no such relief is sought for in the prayer column. No plausible reason was adduced on the side of the 1st respondent/plaintiff. It is well settled that if the defendants are disputing the title of the plaintiff and where a cloud is raised over plaintiff's title and he does not have possession, a suit for declaration and possession, with or without a consequential injunction, is the remedy. The said legal proposition is observed by **Our Hon'ble Supreme Court** in the case of **Anathula Sudhakar vs P. Buchi Reddy (Dead) by Lrs and others** reported in **AIR 2008 SUPREME COURT 2033**, but no such relief is sought for by the 1st respondent/plaintiff in the suit.

Therefore, from the overhaul discussion, this court comes to the conclusion that the plaint in O.S.No. 122 of 2023 does not disclose clear right to sue and cause of action and therefore liable to be rejected under Order 7 Rule 11(a) of CPC.

In the result, this petition is allowed. The plaint in O.S.No. 122 of 2023 on the file of this court is hereby ordered to be rejected under Order 7 Rule 11 (a) of CPC. Considering the facts and circumstance of this case, there is no order as to cost.

This order is typed by me in my official laptop, corrected and pronounced by me in open court on this 07th day of July 2026.

**District Munsif,
Mettur**

Both side witnesses and documents :NIL

**District Munsif,
Mettur**