IN THE COURT OF III ADDITIONAL DISTRICT & SESSIONS JUDGE, DHARAPURAM.

PRESENT: Thiru.C.M.SARAVANAN,B.A.,L.L.M.,

III Additional District & Sessions Judge, Dharapuram.

Wednesday, the 19th day of March, 2025

I.A. No.1 of 2023 in O.S. No. 13 of 2018

R.Thiruveragan

...Petitioner/1st defendant

Vs.

1.Vasanthamani
2. M.Karthik
3. M.Madankumar ...Respondents/Plaintiffs

This petition is coming on for final hearing on 10.03.2025, before me in the presence of Shri.P.Ramasami, Advocate for the Petitioner/1st defendant and Shri.M.Parameswaramuruthy, Advocate for the Respondents/Plaintiffs and upon hearing both sides and perusing the records and the Petition having stood over for my consideration till this day, this court delivered the following

O R D E R

The petition is filed to reject the plaint under order 7 Rule 11 of the Code of Civil Procedure in short, “the Code”.

2. The crux of the petition is as follows:-

The petitioner/ 1st defendant herein and as such the petitioner well acquainted with the facts and circumstances of the case. For the sake of convenience, the parties herein shall be referred to as their ranks in the above suit. The plaintiffs have filed this suit seeking the reliefs of declaration and permanent injunction. The petitioner have preferred this application seeking the relief of rejection of the plaint filed by the plaintiffs in the above suit on the ground that the plaint is barred by law and has also failed to disclose any proper cause of action. Since the plaint filed by the plaintiff in the above suit attracts the grounds enshrined in Order VII Rule 11(a)&(d) of the Civil Procedure Code 1908, the plaint filed in the above suit is liable to be rejected at limine. I further state that presently, the petitioner, the absolute owner of the suit property by virtue of a sale deed dated 22.07.2016 bearing Document No.3250 of 2016 on the file of Sub-Registrar Office, Kangeyam. The plaintiffs being the vendors sold the suit schedule property in my favour through their registered Power Agent i.e., the 2nd defendant. It is pertinent to note that on the day when the plaintiffs executed sale deed in my favour, the power of attorney deed dated 12.09.2013 executed by the plaintiffs thereby appointing the 2nd defendant as their power agent was very much in force which makes the plaintiffs ie., the principal bound by the acts of their power agent. In the said circumstances, the plaintiffs upon executing sale deed in my favour with malicious intention files a suit for injunction against the same defendants as in this suit, bearing O.S.No.200 of 2016 pending on the file of the District Munsif at Kangeyam. In the said suit the petitioner have entered appearance and have also filed written statement. The plaint filed in the above mentioned suit pending on the file of the District Munsif at Kangeyam bearing O.S.No.200 of 2016 resembles nothing but a replica of the plaint filed by the plaintiffs in this suit. Thus, it is apparently clear that the there is no change in the cause of action causing the plaintiffs to file this suit afresh seeking the relief of declaration and permanent injunction as sought in this suit. The plaintiffs having decided to exercise their legal recourses as against the defendants ought to have prayed for all the reliefs available to them at the time of preferring the first suit i.e O.S.No.200 of 2016. If at all the plaintiffs intended to avail the other reliefs at a later point of time which was very much available to them at the time of institution of the first suit, the plaintiffs ought to have obtained leave from the Court in which the first suit was filed. Any such failure to obtain leave will attract the provisions of Order II Rule 2 thereby creating a bar on the subsequent suit i.e., the present suit. Since, the plaintiffs have not obtained the leave from the Court in which the first suit was filed, this suit will be hit by the provisions of Order II Rule 2 of the Civil Procedure Code, 1908. Since the plaintiff without the leave of the Court has omitted a part of their claim which was very much available to them at the time of the first suit, they have relinquished their right to claim the relief sought by them in the plaint filed in this suit. Hence, the plaint claiming the reliefs which is hit by the provisions of Order II Rule 2 of the Civil Procedure Code, 1908 i.e., the plaint filed in this suit is barred by law and is liable to be rejected as per Order VII Rule 11(d) of the Civil Procedure Code. I further state that the present plaint filed by the plaintiffs suppressing the factum of earlier suit i.e., O.S.No.200 of 2016 filed by them as against the same defendants and same cause of action is nothing is abuse of process of law. The plaintiffs have intentionally avoided to mentioned about the earlier pending suit in the plaint filed in this suit just for the sake of maintaining this suit. Such intentionally omission of the available facts is nothing but abuse of process of law amounting to wasting the precious time of this Court. This clearly shows that the intention of the plaintiffs is only to cause harassment to me thereby causing all sorts of hindrance to my peaceful enjoyment and possession of the suit property. The said act of willful omission on the pretext of clever drafting thereby creating an illusion of cause of action for the purpose of maintain this suit has to nibbled at the bud any further protraction would only result wasting the time of this Court. The plaintiffs disputing the power of attorney, life certificate, sale deed executed in my favour and further claiming to be hospitalized on the date of registration of the sale deed in my favour has failed to file any documents along with the plaint in support of his claim. In addition to the above, the plaintiffs claiming possession of the suit property subsequent to the apparent sale effected by them through their power agent has not produced any documents in support of the same. In the absence of any documents on part of the plaintiffs it is not possible to determine whether the facts are true. Any failure on part of the plaintiffs to produce documents at the time of the trial will amount to unnecessary protraction of litigation. It is only for the said reason the Apex Court in a number of judgments has observed that the plaint has to be accompanied with the necessary documents substantiating the cause of action. Any plaint without the necessary documents will be treated as non-disclosure of proper cause of action. Thus, the plaintiffs having filed the plaint herein without any documents that too most of the documents being registered documents very much accessible to the plaintiffs would clearly amount to non-disclosure of cause of action. Hence, it attracts the provisions of Order VII Rule 11

(a) of the Civil Procedure Code. The plaintiffs have preferred this suit only as an after thought in their very many attempts to cause harassment to me from my peaceful possession and enjoyment of the suit property. This suit is nothing but an attempt of the plaintiffs to create a cloud over my title of the suit property. I further state that the for the reasons aforesaid, the plaint filed by the plaintiffs in this suit is clearly barred by law, fails to disclose proper cause of action and it nothing but abuse of process of law.

3. The brevity of the Counter is as follows:

The petition is false, frivols and vexatious and it is not maintainable either in law or on the facts of the case. Except the facts those that are expressly admitted herein all other allegations and averment are denied as false and puts the petitioner to strict proof of the same. Is true that the plaintiffs have filled this suit for declaration and injunction. The allegations and averments that the petitioner had preferred the application seeking the relief of rejection of plaint filed on the ground that the plaint is barred by law and has also failed to disclose any proper cause of action and that the Suit attracts the grounds enshrined in order 7 rule 11 of the CPC and the suit is liable to be dismissed at limini are all denied as false and puts the petitioner to strict proof of the same. The further allegations that the petitioner is absolute owner of the Suit property by virtue of sale deed dated 22.7.2016 bearing document number 3250 of 2016 on the file of sub registrar office Kangayam and that the plaintiffs being the venders sold the suit schedule property in his favour through the registered power agent that is the 2nd defendant and it is pertinent to note that on the same day when the plaintiffs executed the power of attorney 22.9.2013 there by appointing the 2nd defendant as the power agent was very much in force which makes the plaintiffs that is the principal bound by the acts of their power agent in the said circumstances the plaintiffs upon execute in his favour with delicious intention files a suit for injection against the same defendants as in the suit bearing OS.No.200/2016 pending on the file of the District Munsif court Kangeyam and the petitioner had entered appearance and also filed his written statement and that the plaint in the above mention suit pending on the file of the District Munsif court in OS.No.200 of 2016 is nothing but this replica and this suit it is apparently clear that there is no change in the cause of action to file this suit afresh seeking the relief of declaration and permanent injunction as short in this suit etc are all false and put the petitioner to strict proof of the same. The further allegations that the plaintiffs having decided to exercise their legal recruitses as I get to the defendants are to have prayed for all the reliefs available to them at the time of referring the first suit in OS No. 200 of 2016 and the plaintiffs intended to avail the other relief at the later point of time which was very much available to them at the time of Institution of the first suit and that the plaintiffs ought to have obtained leave from the court in which the first suit was filed and that any such failure to obtain leave will attract the provisions of order to by creating bar on the subsequent suit that is the present suit and that since the plaintiffs have not obtained leave from the court in which the first suit was filed this suit will be hit by the provisions of order II rule 2 of the CPC since the plaintiffs without the leave of the Court has omitted a part of their claim which was very much available to them at the time of the first suit that have relinquished their right to claim the relief sought by them in the plaint filed in the suit hence the plaintiffs claiming the reliefs which is hit by the provisions of order II rule 2 of the CPC under that the plaint in this suit is barred by law and is liable to be rejected as per order 7 rule 11 of the CPC extra are all denied as false and puts the petitioner to strict proof of the same. Further the present plaint filed by the plaintiffs suppressing the factor of earlier suit in OS 200 of 2016 filed by them as against the same defendants under the same cause of auction is nothing is abuse of process of law and that the plaintiffs have intentionally avoided to mentioned their pending suit in the plaint in this suit just for the sake of maintaining the suit and assets intentionally omission of available facts is nothing but abuse of process of law amount in to wasting the precious time of this court and that it is clearly shows that the intention of the plaintiff is only to cause harassment to the petitioner that by causing all parts of hindrance to his full enjoyment and possession of the property on the pretext of clever drafting their by creating and Illusion of cause of action for the purpose of maintain this suit has to be nipped at the bud any further protraction would result waste in the time of this honorable court etc are all denied as false and puts him to strict proof of the same. The further allegations that the plaintiffs disputing the power of attorney, life certificate sale date executed in his favour and further claiming to be hospitalized on the date of registration of the sale deed in his favour as failed to file any documents along with the plaint in support of his claim and that in addition to the above the plaintiffs claiming possession of the property subsequent to the Apparent sale effected by through their power agent he has not produced any documents in support of the same and that in the absent of any document is not possible to determine whether the facts are true and that any failure on part of plaintiffs to produce document at the time of the trial will amount to unnecessary protraction of litigation and that it is only for the said reason the apex court in a number of judgment has observed that the plaint has to be accompanied with the necessary documents substantiating the cause of auction at any point without the necessary documents will be treated as non disclosure of proper cause of action and that the plaintiffs having find the plane Kiran without any documents that to most of the documents being registered documents very much accessible to the plaintiffs would clearly amounts to not disclose of cause of action, hence it attracts the provisions of order 7 rule 11 of the Civil Procedure Code etc are all denied as false and puts came to strict proof of the same. The plaintiffs have preferred this suit only as after thought in there very many attempts to cause harassment to the petitioner from his peaceful possession and enjoyment of these suit property and that this suit is nothing but an attempt of the plaintiffs to create a cloud over title of the suit property and that for the reasons afore said the plaintiffs in the suit is clearly barred by law fails to disclose proper cause of action and it is nothing but abuse of process of law and therefore prayed for rejection of plaint etc. are all denied as false and puts the petitioner to strict proof of the same. This respondent/plaintiff respectfully submits that the averments made in the plaint may be read as part and parcel of this counter statement. The present suit is filed for the relief of declaration and injunction. These plaintiffs respectfully submit that the first defendant is a financier, 2nd defendant is employed under him. The defendants 1 & 2 are master and servant and doing finance business. This respondents father Mr.Manokaran had borrowed a sum of Rs.3,00,000/- from the 1st defendant / petitioner on 12.09.2013. For the security for the loan amount the respondents have executed the agreement for sale for Rs.40,00,000/- and some loan documents in favour of the petitioner. At the request of the petitioner this respondents have executed the general power of attorney in favour of the 2nd defendant with a hope that they will not misuse the same. But surprisingly on 22.07.2016 the 2nd defendant being the power agent had executed a sale deed Document, No.2250/2016 for Rs.40,00,000/-in favour of the 1st defendant. The guideline value of the suit property is Rs. 1,08,00,000/- it is pertinent to note that the sale price is paid by cash. As per section. 269 SS of the income tax act the petitioner supposed to make payment to the power agent, vendor only by cheque or DD or any other electronic mode. Absolutely there is no proof to the sale consideration paid to the vendor. In the absence of the sale consideration the alleged sale is illegal, void and cannot be enforced at all. Further it is alleged in the sale deed that the possession of the suit property is handed over to the petitioner on the date of the sale. Even now the physical possession of the suit property is held with the respondents. Taking advantage of the recitals of the alleged sale deed petitioner made attempts to tress pass in to the suit property which was thrwarted out by the respondent. He also made attempts to mutate the revenue records in his favour through the Tashildar of Kangeyam and he got it. The respondents have preferred an appeal against the patta name transfer order before the Sub Divisional Magistrate Dharapuram in நி.மு.3377/2020அ. After hearing the appeal the patta granted by the Tashildar Kangeyam was cancelled by an order dated 02.01.2021. Further on 21.07.2016 the 1"respondent was admitted in Dr.J.Balasundarraj hospital the private hospital in Kangeyam for treatment and discharged defendants have false created & fabricated the Life certificates of the respondents with the help of one Dr. Periyasamy of on 23.07.2016. But the Coimbatore and produced the before the Sub Registrar Kangeyam at the time of registration of the sale deed. The respondents have also lodged complaint before the police station Kangeyam against the defendants 1 & 2. The respondents have produced all the necessary documents before this court at the time of filing the suit. The relief sough for in OS.No.200/2016 is only for the relief of bare injunction. The relief sought for in the present suit is for declaration and injunction as against 4 defendants including the Tashildar Kangeyam and the Sub Registrar, Kangeyam. Hence the the provision under Order 2 Rule 2 of the cpc will not apply to the present case. This respondents/plaintiffs have all the valid document and cause of actions to file the present suit. The present application filed by the petitioner is nothing but abuse of process of the court. Mere allegations raised in the affidavit are not sufficient to reject the plaint. As such the petition filed for rejection of plaint is not at all maintainable and is liable to be dismissed in limini. The petitioner have not come to the court with the clean hands. There are no valid grounds or reasons for filing this application for rejection of plaint. There is no merits in this application. The petition is filed only to protract the proceedings without any iota of truth. The petitioner had filed the petition in a speculative manner and to dragon the proceedings. Hence this petition is liable to be dismissed.

4. It is necessary to decide whether the petition is liable to be allowed or not thereby the plaint is liable to be rejected or not.

5. Heard both sides. The learned counsel appearing for the petitioner would contend that the suit is filed by the plaintiff for declaration and permanent injunction. The defendant filed this application to reject the plaint is barred by law and has also failed to disclose any proper cause of action. Since the plaint filed by the plaintiff attracts the grounds enshrined in Order VII Rule 11(a) and (d) of CPC. The petitioner is absolute owner of the suit property by virtue of the sale deed on 22.07.2016. The plaintiff sold the suit property through their registered power agent i.e. the 2nd defendant. Subsequently the plaintiff filed a suit for injunction against the defendants in OS.No.200 of 2016 pending on the file of the learned District Munsif court, Kangayam. In which the petitioner entered his appearance and also filed his written statement. The said suit is nothing but a replica of the present suit. Therefore, there is apparently clear that there is no change in the cause of action. The plaintiff would have exercised their legal recourses as against the defendants ought to have prayed for all the reliefs available to them at the time of preferring the first suit i.e Os.No.200 of 2016. The plaintiff have obtained relief from the court in which the first suit was filed alone can filed subsequent suit and any such failure to obtain leave the attract the provisions of Order 11 Rule 2 thereby creating a bar on the subsequent suit. The plaintiff relinquished their right by omitting a part of claim and hence the suit is hit by the provisions of Order II Rule 2 of the Civil Procedure Code. The plaintiff suppressed the exercise of earlier suit Os.No.200 of 2016 and the cause of action nothing but an abuse of process of law which shows that only intention of the plaintiff is to harass the defendant. The plaintiff dispute the power of attorney and registration of sale deed and also they are claiming the possession of the suit property subsequent to the sale in the absence of any documet on the part of the plaintiff it is not possible to determine the facts are true or false. Hence the suit filed by the plaintiffs in this suit is clearly bared by law, fails to disclose proper cause of action and hence prays to reject the plaint.

6. Per contra, the learned counsel appearing for the respondent in this case would contended that, that the plaintiffs have filled this suit for declaration and injunction. The allegations and averments that the petitioner had preferred the application seeking the relief of rejection of plaint filed on the ground that the plaint is barred by law and has also failed to disclose any proper cause of action and that the Suit attracts the grounds enshrined in order 7 rule 11 of the CPC and the suit is liable to be dismissed at limini are all denied as false and puts the petitioner to strict proof of the same. The further allegations that the petitioner is absolute owner of the Suit property by virtue of sale deed dated 22.7.2016 bearing document number 3250 of 2016 on the file of sub registrar office Kangayam and that the plaintiffs being the venders sold the suit schedule property in his favour through the registered power agent that is the 2nd defendant and it is pertinent to note that on the same day when the plaintiffs executed the power of attorney 22.9.2013 there by appointing the 2nd

defendant as the power agent was very much in force which makes the plaintiffs that is the principal bound by the acts of their power agent in the said circumstances the plaintiffs upon execute in his favour with delicious intention files a suit for injection against the same defendants as in the suit bearing OS.No.200/2016 pending on the file of the District Munsif court Kangeyam and the petitioner had entered appearance and also filed his written statement and that the plaint in the above mention suit pending on the file of the District Munsif court in OS.No.200 of 2016 is nothing but this replica and this suit it is apparently clear that there is no change in the cause of action to file this suit afresh seeking the relief of declaration and permanent injunction as short in this suit etc are all false and put the petitioner to strict proof of the same. 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Kangeyam was cancelled by an order dated 02.01.2021. Further on 21.07.2016 the 1"respondent was admitted in Dr.J.Balasundarraj hospital the private hospital in Kangeyam for treatment and discharged defendants have false created & fabricated the Life certificates of the respondents with the help of one Dr. Periyasamy of on 23.07.2016. But the Coimbatore and produced the before the Sub Registrar Kangeyam at the time of registration of the sale deed. The respondents have also lodged complaint before the police station Kangeyam against the defendants 1 & 2. The respondents have produced all the necessary documents before this court at the time of filing the suit. The relief sough for in OS.No.200/2016 is only for the relief of bare injunction. The relief sought for in the present suit is for declaration and injunction as against 4 defendants including the Tashildar Kangeyam and the Sub Registrar, Kangeyam. Hence the the provision under Order 2 Rule 2 of the cpc will not apply to the present case. This respondents/plaintiffs have all the valid document and cause of actions to file the present suit. The present application filed by the petitioner is nothing but abuse of process of the court. Mere allegations raised in the affidavit are not sufficient to reject the plaint. As such the petition filed for rejection of plaint is not at all maintainable and is liable to be dismissed in limini. The petitioner have not come to the court with the clean hands. There are no valid grounds or reasons for filing this application for rejection of plaint. There is no merits in this application. The petition is filed only to protract the proceedings without any iota of truth. The petitioner had filed the petition in a speculative manner and to dragon the proceedings. Hence this petition is liable to be dismissed.

7. A careful reading of order 7 Rule 11 which reads thus:

"**11. Rejection of plaint.-** The plaint shall be rejected in the following cases:

(a) Where it **<u>does not disclose a cause of action</u>**;

(b) Where the relief claimed **<u>is undervalued</u>**, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

(c) Where the relief claimed is **<u>properly valued but</u>** the plaint is written upon paper **<u>insufficiently stamped</u>**, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(d) Where the suit appears from the statement in the plaint to be **<u>barred by any law</u>**;

(e) Where it is **<u>not filed in duplicate</u>**;

(f) Where the plaintiff **<u>fails to comply</u>** with the provisions of **<u>rule 9</u>**."

8. The **Hon'ble Supreme Court of India in 2023 Livelaw (SC) 372 in Ramisetty Venkatanna and another Vs. Nazyam Jamal Saheb and others** held that,

However, on considering the averments in the plaint as they are we are of the opinion that the plaint is ought to have been rejected being vexatious illusory cause of action and barred by limitation and it is a clear case of clever brought in.

The **Hon'ble High Court of Madras in Dr.L.Ramachandran Vs. K.Ramesh, 2015(4) L.W.585(Mad)(DB), Para 26,** held that,

" The scope of Rule 11 of Order VII CPC has been explained in various decisions and the legal principles deducible are that, if the Plaint does not disclose the cause of action or is barred by law; can be rejected where the litigation was utterly vexatious and abuse of process of Court; if any one of the conditions mentioned under the Rule were found to exist, thus saving the defendants onerous and hazardous task of contesting a non maintainable suit during the course of protracted litigation and where the suit was instituted without proper authority. Thus, the provision of Order VII Rule 11 CPC being procedural is designed and aimed to prevent vexatious and frivolous litigation".

9. Here in the case on hand, the petitioner prays to reject the plaint on two grounds. One is under Order II Rule 2 of CPC and another one is that the suit did not disclose any cause of action. While going through Order II Rule 2 CPC, it reads thus,

(1) Suit to include the whole claim.Every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court.

(2) Relinquishment of part of claim. Where a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

(3) Omission to sue for one of several reliefs.A person entitled to more than one relief in respect of the same cause of action may sue for all or any of such reliefs, but if he omits, except with the leave of the Court, to sue for all such reliefs, he shall not afterwards sue for any relief so omitted".

10. Here in the case on hand, the learned counsel appearing for the petitioner would contend that the plaintiff already filed a suit before the learned District Munsif, Kangayam in OS.No.200 of 2016 and without leave of the court the second sufficient suit i.e present suit is filed and hence it hit under order II Rule (2) of CPC. For which the learned counsel respondent would contend that the above suit is filed for only for bare injunction and this suit is filed for declaration and injunction and hence he contend that the present suit is not hit under order II Rule (2) of CPC.

The **Hon'ble Supreme Court of India in, 2020 SCC On line 563, Para 12.7, Dahiben Vs. Arvinbhai Kalyanji Bhansai,** held that,

" **The test for exercising the power under Order VII Rule 11 is that if the averments made in the plaint are taken in entirety, in conjunction with the documents relied upon, would the same result in a decree being passed".**

11. Moreover, it was held that, the court must examine the plaint and determine when the right of suit first acquired to the plaintiff and whether on the assumed fact the plaintiff within time. Therefore, the court should look in to whether any right of suit is available to the plaintiff in this case.

12. A careful reading of the plaint averments, it reveals that the suit is filed for the relief of declaration and permanent injunction. Wherein the plaintiff would state that the father of 1st and 2nd plaintiff executed a sale agreement in respect of the suit property and also executed a General Power of Attorney in favour of the 2nd defendant. The documents were executed only as the security to the loan amount. Subsequently based on the General Power of Attorney , the 1st defendant cunningly executed a sale deed on 22.07.2016 through a registered document and the sale price also not passed to the vendee. The physical possession of the suit property is will the plaintiffs. Moreover, it is alleged that on 22.07.2016 the defendant 1 and 2 had fabricated the life certificate of 1st plaintiff and had registered the document before the Sub Registrar, Kangayam. Therefore, the plaintiff prayer is that to declare the sale deed dated 22.07.2016 as null and void and also he prayed for an injunction restraining the 3rd defendant from transferring the patta and revenue records in the suit property in favour of the 1st defendant and also prays a decree of permanent injunction restraining the 4th defendant from registering any document by D1 and D2.

13. The learned counsel for the respondent in this case would contend that the suit in OS.No.200/2016 was filed only for the prayer of permanent injunction. Wherein this present suit is filed for declaration and injunction and therefore the suit is not hit under order II Rule 2 of CPC. On perusal of records, the copy of the plaint in OS.No.200 of 2016 not produced by either parties. Therefore, the nature of the suit filed before the learned District Munsif, Kangayam could not be ascertained by this court. However, a careful reading of the plaint averments, it reveals that the pleadings of plaint can be determine only after production of evidence by both the parties since it is a mixed of question of law and fact to be decided.

14. The Hon'ble High court of Madras in, M. Prince Manohar and others Vs. Bhima Lakshmi Narasammah and others reported in 2014 1 CTC Page 160 held that,

" In so far as the other two grounds raised by the learned counsel for the petitioners that the suit is hit by principle of res judicata and Order II Rule 2 CPC are concerned, once again, being a mixed question of law and facts, the same cannot be gone into at this stage and the same can be decided only at the time of trial".

15. The object of the provision under order 7 Rule 11 is enlightened by **the Hon'ble Supreme Court of India in, Azhar Hussain Vs. Rajiv Gandhi** reported in 1986, Supp. SCC 315, Where in it is held that,

" The whole purpose of conferment of powers under this provision is to ensure that a litigation which is meaningless, and bound to prove abortive, should not be permitted to waste judicial time of the court".

The other point raised by the petitioner is that, this suit does not carry a cause of action.

16. The Hon'ble High court of Madras in **Electronic Machine Tools Limited rep. by its Branch Manager, Chennai Vs. Power Engineers, (2011)6 MLJ 929, Para 16** held that,

" It is an admitted fact that the averments in the plaint are sufficient to prove that where the cause of action is mentioned and averred in the plaint, there is no need to decide as to whether the cause of action averred in the plaint is true and correct ".

17. Here in the case on hand, the plaintiff would state that the cause of action,

" **The cause of the action for the suit arose on when the plaintiffs purchased the suit property on 12.12.2011 and when the 1st plaintiff's husband borrowed money from the 1st defendant and executed the loan documents and on 12.09.2013 when the 1st defendant entered in to an agreement for sale and the plaintiffs executed the General power of attorney in favor of the 2nd defendant and on 22.07.2016 when the 2nd defendant by cunningly executed sale deed document No. 3250/2016 favour of the 1st defendant on 02.09.2016 when the 1st defendant attempt to trespassed into the suit property which was thwarted by the plaintiffs and when plaintiff lodged the police complaint against the 1st defendant and the plaintiff caused on notice to the defendants**

on 29.08.2016 and 26.08.2016 and where the plaintiffs are residing and where the suit property is situated which is well within the limits of this honorable court".

18. On perusal of the plaint, the plaintiff would state that dates in which the case of action were arise. The truthiness of the same can be determined only after the trial. Considering the discussions made supra, the petitioner failed to prove that the suit is hit under order II Rule 2 CPC as well as the suit does not carry the cause of action. Therefore, this court is in a considered opinion this petition has no merits and liable to be dismissed.

In fine, the petition is dismissed. No order as to cost.

Dictated to Steno-Typist, taken down by her in short-hand, transcribed and computerized by her and corrected by me in computer and pronounced by me in the Open Court on this the 19th day of March, 2025.

SARAVANAN MANOKARAN

Digitally signed by SARAVANAN MANOKARAN
Date: 2025.03.20 19:43:30 +0530

III Additional District & Sessions Judge,

Dharapuram.

Petitioner's side witnesses and documents : Nil

Respondent's side witnesses and documents: Nil

SARAVANAN MANOKARAN

Digitally signed by SARAVANAN MANOKARAN
Date: 2025.03.20 19:43:36 +0530

III Additional District & Sessions Judge,

Dharapuram.

Order IN
IA.No.7/2025 IN
OS.No.16/2023
Date:25.02.2025