

IN THE COURT OF THE DISTRICT MUNSIF, PALLADAM

**Present:- Thiru. V. Kalidasan, B.Com., L.L.M.,
District Munsif,Palladam.**

Wednesday the 4th day of March 2026

IA No.12/2026

in

OS No.98/2014

1. Karuppusamy (died)

2. R. Jeevanantham

3. K. Ananthi

4. Rajkumar

...Petitioners/Defendants

/Vs/

M.Mariyammal

...Respondent/Plaintiff

This Petition is coming on 18.02.2026 for final hearing before me in the presence of the Petitioners Advocate Mr.M.Chockalingam, B.A,B.L., and Mr.P.P.Sureshkumar, B.A,B.L., Advocate for the Respondent, Upon perusing the Petition, affidavit, counter statement and other connected materials on record and hearing the arguments of both sides and having stood over till this day for consideration, this court made the following...

ORDER

1. The petitioner filed this petition in IA No.12/2026 Under order 7 Rule 11 of CPC that to dismiss the above suit.

2. Brief averments of the petitioners/Defendants:-

The respondent has filed the above suit for Permanent Injunction against the petitioners. The 4th petitioner's deceased father and the 2nd petitioner had

jointly purchased the suit property as per Sale Deed dated 03.07.2014 from the respondent, through her Power of Attorney, the 1st defendant in the suit. The 4th petitioner's father Karuppusamy and the 2nd petitioner have jointly filed the suit O.S.188/2018 before the Hon'ble Subordinate Judge Court, Palladam for the relief to declare that the Sale Deed dated 03.07.2014 as true valid and binding on the respondent and for recovery of possession. In the above suit his father Karuppusamy was examined as PW1 and he deposed about the validity of the Sale Deed dated 03.07.2014. The plaint in the above suit in O.S.12/2015 and the written statement in the said suit and also plaint and written statement in O.S.98/2014 were produced as Exhibits and after an elaborate argument, the Hon'ble Subordinate Judge Court, has decreed the suit on 17.09.2019, stating, It is held plaintiffs are the absolute owners of the suit property by virtue of the Sale Deed dated 03.07.2014 and they are entitled for the recovery of possession from the defendant. Hence, the above suit, in respect of relief against the Sale Deed dated 03.07.2014 was declared by Sub Court and the respondent/plaintiff has participated in the trial. The oral and documentary evidence are one and a trial in the same issues once again is not legally correct. Another trial of the same issue by this court which Subordinate to Sub Court, and passed any conflicting Judgment, that may end in miscarriage of Justice. They have sought for the relief of recovery of possession of the property and the same was also granted in the above suit. If at all, the respondent may be evicted by due process by filing execution petition by us for recovery of possession, as per the Decree in O.S.188/2018. Hence, the respondent is not entitled for a permanent injunction against the petitioners. Hence, this petition.

3. Brief averments of the counter filed by the Respondent/Plaintiff:-

The 4th petitioner's father and 2nd petitioner jointly purchased the suit property as per the sale deed dated 03.07.2014 from the respondent through her

power of attorney, the 1st defendant are utter false and misleading one. It is true that the deceased Karuppusamy and 2nd petitioner have filed suit in OS.No. 188/2018 for declaration and recovery of possession and the same is decreed on 17.09.2019. But this respondent prepared appeal against decree and judgment passed in O.S.No.188 of 2018 before the Hon'ble District Judge of Tiruppur and the same is pending before the 2nd Additional District Judge court in A.S.No. 99/2019 and the same stands posted on 02.03.2026. But the petitioners suppressed above pendency of appeal in this application. Since the appeal is pending this suit cannot be rejected as per law. The reasons contain the affidavit is not attract the conditions laid under order VII rule 11 of C.P.C. The other allegation that another trial of the same issue by this court which subordinate to the sub court and pass any conflicting judgment that may end in miscarriage of justice is utter false and misleading one. Hence, prayed to dismiss this petition.

4. Points for consideration:

Whether this petition will be allowed or not ?

5. Heard petitioners and respondent sides. No oral or documentary evidence is let in by both sides.

6. Answer to the point :

Materials on records perused. It is seen from the records that the respondent/plaintiff herein had filed the suit in O.S.No.98/2014 for the relief of Permanent injunction and other reliefs. The present petition in I.A. No. 12/2026 has been filed by the petitioners herein Under Order 7 Rule 11 and Section 151 of CPC to dismiss the above suit.

7) The learned counsel for the petitioners submitted that, the deceased 1st petitioner namely Karuppasamy and the 2nd petitioner namely Jeevanantham

have jointly purchased the suit property by virtue of sale deed dated 03.07.2014 from the respondent through her power of attorney. The 1st and 2nd petitioner had filed the suit in OS.No.188/2018 before the Hon'ble Sub court, Palladam for the relief of declaration of the sale deed dated 03.07.2014 is true and binding on the respondent and also for the relief of recovery of possession. The Hon'ble Sub court, Palladam had decreed the suit on 17.09.2019. Now, the petitioner filed the above suit for the relief of Permanent injunction. The issue between the parties already decided and the Hon'ble Sub court, Palladam had declared the sale deed dated 03.07.2014 is valid and permitting the parties for another trial may conflicting the earlier judgment. In view of the said decree the respondent may be evicted by the due process of law by filing execution petition by the petitioners. Hence, the present suit filed by the respondent/plaintiff is liable to be dismissed as not maintainable.

8) The learned counsel for the respondent submitted that, it is true that the Hon'ble Sub court had decreed the suit in OS No.188/2018 on 17.09.2019, which the suit filed for declaration and recovery of possession. But, the petitioner's conveniently suppressed the fact that the respondent filed the appeal against the judgment and decree passed in OS No.188/2018 on 17.09.2019. The said appeal is pending before the Hon'ble 2nd additional District Judge, Tiruppur in AS.No.99/2019. Since, the appeal is pending, the provision Under Order VII Rule 11 of CPC is not attracted. Hence, the present petition filed by the petitioners is liable to be dismissed.

9) On considering the both side submissions and on perusing the plaint and supporting documents, the respondent/plaintiff has pleaded in her plaint that the plaintiff is the absolute owner of the suit property by virtue of sale deed dated 09.10.2006 and the plaintiff had constructed a house in the suit property. The 1st defendant had provided a loan amount a sum of Rs.1,00,000/- and got signature

of the plaintiff in several blank stamp papers. After, settlement of the due, the plaintiff demanded the 1st defendant to cancel the power deed but, the 1st defendant illegally demanded the plaintiff to settle the interest at the rate of Rs.8,000/- per month. The plaintiff had canceled the power deed on 20.06.2014 before the SRO Palladam. But, later the plaintiff came to know that the 1st defendant had executed sale agreement dated 10.06.2014 in favour of the 2nd defendant. The plaintiff issued legal noticed dated 02.07.2014 and the same is received by 2nd defendant on 04.07.2014. Suddenly on 13.07.2014 the defendants illegally entered in to a suit property and attempted disturb the lawful possession and the enjoyment of the suit property by the plaintiff. Hence, the plaintiff filed this suit against the defendants for the relief of declaration and to restraining them from in any way interfering with the plaintiff's peaceful possession and the enjoyment of the suit property.

10) On perusal of the case records it is admitted by the both sides that the petitioners 1 and 2 had filed the suit in OS No.188/2018 before the Hon'ble Sub court, Palladam for the reliefs of declaration and recovery of possession based on the sale deed dated sale deed dated 03.07.2014. The Hon'ble Sub court, Palladam had decreed the suit on 17.09.2019 and the respondent herein had preferred appeal against the judgment and decree passed in OS No.188/2018 on 17.09.2019. The said appeal is pending before the Hon'ble 2nd additional District Judge, Tiruppur in AS.No.99/2019.

11) The only main contentions of the petitioners/defendants for filing this petition is that the issue between the parties with respect to the suit property was already decided and the competent court was granted decree in favour of the deceased 1st petitioner and 2nd petitioner. The Hon'ble Sub court, Palladam had declared the sale deed dated 03.07.2014 is valid through the judgment and decree passed in OS No.188/2018 on 17.09.2019. Therefore, again permitting the

parties for another trial may conflicting the earlier judgment of the competent court. The petitioners had filed the present petition Under Order VII Rule 11 of CPC. For sake of convenience it is relevant to extract the provision Under Order VII Rule 11 of CPC.

11. Rejection of plaint.—

The plaint shall be rejected in the following cases:—

(a) where it does not disclose a cause of action;

(b) where the relief claimed is undervalued, 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 properly valued, but the plaint is returned upon paper insufficiently stamped, 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 barred by any law;

(e) where it is not filed in duplicate;

(f) where the plaintiff fails to comply with the provisions of rule 9:

[Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court

and that refusal to extend such time would cause grave injustice to the plaintiff.]

In view of the above provision the court can reject the plaint if any of the criteria applicable to the plaint filed by the plaintiff in the suit. At the time of filing of the suit, the courts is not add or subtract anything to the plaint and based on the pleadings alone, the court can decide whether the plaint can be registered as a suit or to reject the plaint Under Order VII Rule 11 of CPC even at the time of numbering the plaint. Even, after registering the suit, it is a settled law that while deciding the application under Order 7 Rule 11 of CPC the courts have to be considered the averments made in the plaint only and the defense of the defendant which could be pleaded in the written statement need not be considered. The said law has been reiterated by the Hon'ble Supreme Court of India in its recent decision in *Karam Singh vs Amarjit Singh & Ors.* in 2025 INSC 1238 dated on 15 .10.2025

15. Before we assess the correctness of the impugned orders, we must remind ourselves of the basic principles governing rejection of a plaint under Order 7 Rule 11 of CPC. Here, the defendants seek rejection of plaint under clause (d) of Rule 11 (i.e., suit barred by law). Clause (d) makes it clear that while considering rejection of the plaint thereunder only the averments made in the plaint and nothing else is to be considered to find out whether the suit is barred by law. At this stage, the defense is not to be considered. Thus, whether the suit is barred by any law or not is to be determined on the basis of averments made in the plaint.

In view of the above decision it is clear that while deciding the application to reject the plaint Under Order 7 Rule 11 of CPC the trial courts need not consider

the defense could taken in the written statement. The petitioners have not filed the above petition to reject the plaint or dismiss the suit as not maintainable, immediately after the judgment and decree passed in OS No.188/2018 on 17.09.2019. After, six years from the date of decree, the present petition has been filed by the petitioners.

12) It is pertinent note that from the averments of the petition with the accompanied affidavit it is seen that though the petitioners sought the relief to reject the plaint, but, he filed the petition Under Order VII Rule 11 of CPC to dismiss the above suit as not maintainable. Considering the averments of the petition it is found that the petitioners taken a ground of res judicata to dismiss the suit as not maintainable. On considering the same this court is obliged to rely a decision of Hon'ble Supreme Court of India passed in Pandurangan Vs T.Jayarama Chettiyar and another in Civil Appeal No.7743/2025 dated 14.07.2025.

8. In Srihari Hanumandas Totala v. Hemant Vithal Kamat & Ors, this court held that the adjudication of the plea of res judicata is beyond the scope of Order VII, Rule 11 CPC, the court held:

“25. On a perusal of the above authorities, the guiding principles for deciding an application under Order 7 Rule 11(d) can be summarised as follows:

25.1. To reject a plaint on the ground that the suit is barred by any law, only the averments in the plaint will have to be referred to.

25.2. The defence made by the defendant in the suit must not be considered while deciding the merits of the application.

25.3. To determine whether a suit is barred by res judicata, it is necessary that (i) the "previous suit" is decided, (ii) the issues in the subsequent suit were directly and substantially in issue in the former suit; iii) the former suit was between the same parties or parties through whom they claim, litigating under the same title; and (iv) that these issues were adjudicated and finally decided by a court competent to try the subsequent suit.

25.4. Since an adjudication of the plea of res judicata requires consideration of the pleadings, issues, and decision in the "previous suit", such a plea will be beyond the scope of Order 7 Rule 11(d), where only the statements in the plaint will have to be perused."

*9. Issue relating to whether the ex parte decree is obtained by collusion, or whether the defendant No. 1, as alleged, has played fraud by filing a suit in a court having no jurisdiction or whether the appellant is a bonafide purchaser or not need to be examined in detail. This Court has held that such circumstances require an in-depth examination of the previous decree, and its impact on the second suit. Res judicata cannot be decided merely on assertions made in the application seeking rejection of plaint. As held by this Court in *V. Rajeshwari v. T.C. Saravanabava*, 9 identifying similarity in causes of action should be a matter for trial*

where documents from the first suit are studied and analysed. Res judicata cannot be a matter of speculation or inference. In Keshav Sood v. Kirti Pradeep Sood, 10 this Court took a strong view against the plea of res judicata being raised in applications seeking rejection of plaint and held as follows:

“5. As far as scope of Rule 11 of Order VII of CPC is concerned, the law is well settled. The Court can look into only the averments made in the plaint and at the highest, documents produced along with the plaint. The defence of a defendant and documents relied upon by him cannot be looked into while deciding such application.

6. Hence, in our view, the issue of res judicata could not have been decided on an application under Rule 11 of Order VII of CPC. The reason is that the adjudication on the issue involves consideration of the pleadings in the earlier suit, the judgment of the Trial Court and the judgment of the Appellate Courts. Therefore, we make it clear that neither the learned Single Judge nor the Division Bench at this stage could have decided the plea of res judicata raised by the appellant on merits.”

In view of the above decision of our Hon'ble Apex court it is clear that the trial court cannot be summarily decided the suit based on the application to reject the plaint on the ground of res judicata. To decide whether the suit is barred by res judicata is needed a detailed examination of pleadings in the prior suit which is required to be establish only by adducing evidence. The said evaluation cannot be done summarily. In view of the above settled law by the Hon'ble Apex Court in Pandurangan Vs T.Jayarama Chettiyar and another case, the plea of the res

judicata cannot be a ground to reject the plaint Under Order VII Rule 11 of CPC and the plea of res judicata can be adjudicated only after completion of trial proceedings and complete consideration of earlier to proceedings. Therefore, for the said reasons this court is not inclined to allow this petition.

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

Dictated to Steno-Typist, and typed directly in computer and corrected & pronounced by me in open Court, on this 4th day of March 2026.

**District Munsif,
Palladam.**

Appendix:-

Petitioner's side Witness and Documents:- Nil

Respondent's side Witness and Documents:- Nil

**District Munsif,
Palladam.**

IA No.12/2026
in
OS No.98/2014
Fair/Draft order
Dated 04.03.2026