

IN THE COURT OF IVth ADDITIONAL DISTRICT JUDGE, UDUMALPET.

PRESENT: Thiru.M.Nambirajan,, B.A., B.L.,

IVth Additional District Judge, Udumalpet.

Saturday, the 1st day of November, 2025

IA.No. 8 of 2025 in O.S.No.127 of 2025

K.Srihari.

... Petitioner/3rd defendant

Vs.

1. Ranjithkumar

2. Radhidevi

3. V. Pushpam

.....1st Respondent/1st plaintiff

..... Respondents/1 & 2 Defendants

This Petition came before me for final hearing on 26.08.2025 in the presence of Thiru.M.A.Kanagaraj, Advocate for the Petitioner/ 3rd defendant and Thiru.A.R.Hariprasaadh, Advocate for the 1st Respondent/ 1st Plaintiff, Respondents 1 & 2 are remains exparte and having heard both sides and on perusal of the records and having stood over for consideration till this day, this court delivers the following :-

Order

The petition has been filed under Or.VII R.11 r/w. section 151 of CPC to reject the plaint in OS.No.127/2025.

2. Precis on the petition:-

2.1) The Petitioner is 3rd Defendant in the above suit. The above suit has been filed in respect of the properties belonging to the petitioner family through its paternal ancestors. The first respondent, who has filed the above suit, is not part of his paternal family but a rank outsider to the same. He state that by law and documents in the family, his family is entitled to the suit properties. The plaintiff has come to court as if one Lakshmiammal was the owner of the suit properties and had expired leaving behind an alleged Will dated 30.09.1985 and

that under such alleged Will the suit B Schedule property has been bequeathed to the first respondent and the suit A Schedule Property to a religious trust of which the first respondent is the Trustee. On such allegation, the first respondent has sought the declaration of title and injunction over the Schedule B property, while in respect of the Schedule A property the relief of injunction alone. The suit and reliefs are presumptuous in as much that the title of the Lakshmiammal is presumed and so also her right to execute a Will in respect of the same. Admittedly and going by the plaint, the suit properties are not self-acquired properties of Lakshmiammal nor there is any document conferring absolute title upon her. The plaint Doc No.1, the Deed of Partition dated 11.05.1955, would recite that the Lakshmiammal has been provided with a right of enjoyment alone, that too during her lifetime and that the suit properties would, after the lifetime of Lakshmiammal, vest in the family of the Petitioner absolutely I state that as such there is no document or other record evidencing the title of Lakshmiammal even going by the plaint.

2.2 The petitioner state in the above scenario, the plaint assuming that the suit properties belonged to Lakshmiammal absolutely and that she was entitled to execute a Will is misconceived and impermissible in law. Even taking into consideration Sec.14 of the Hindu Succession Act, 1956, there is no presumption that such provision applies to Lakshmiammal or that she had become the absolute owner thereunder. Needless to state that the plaintiff has filed the above suit and sought for relief on the basis that Lakshmiammal was the absolute owner of the suit property and that she had executed the alleged Will. The foundational claim, that too an disputed claim, is the claim that Lakshmiammal was the absolute owner of the suit property. But with no documentary proof and such claim being disputed, the foundational relief that ought to have been sought is that Lakshmiammal had become the absolute owner of the suit properties, notwithstanding the recitals to the contra in the

Deed of Partition dated 11.05.1955 to which Lakshmiammal herself is a party/signatory.

2.3. The 1st respondent claims title and injunction based on the alleged Will dated 30.09.1995 of Lakshmiammal. This alleged will is seeing the light of the day of Four Decades, I state that there is no presumption that this Will is genuine, true and/or actually executed by Lakshmiammal that too voluntarily and in a sound disposing state of mind. But here again, the plaint proceeds to presume the alleged Will as true, genuine and executed voluntarily and in a sound disposing state of mind and seeks right away declaration of title. The suit as framed is defecting and impermissible in law. The foundational reliefs required to establish the title of Lakshmiammal and the veracity of the alleged Will stand omitted and as such fatal to the very maintainability of the suit. The petitioner state that no relief can be granted to the first respondent without declaratory relief as to title of Lakshmiammal and veracity of the alleged Will being sought and granted. As these are belated and beyond time to be sought or granted, the first respondent has filed a defective suit, the plaint of which deserves to be rejected as such. The mere injunctive relief in respect of Schedule A property is also flawed and inadequate and as such impermissible of being granted. In respect of A Schedule Property, the first respondent has sought for bare injunction alleging to be the trustee in possession of the same, that too pursuant to the alleged Will dated 30.09.1985. A mere perusal of the plaint would reveal that the suit is not filed by the first respondent as Trustee or on behalf of the alleged Trust. The suit has been filed by the first respondent in his personal capacity. While so, the frame of the suit itself is fatally flawed and unsustainable. It is not known as how a single suit, seeking one set of reliefs in personal capacity (Schedule B) and the other relief as Trustee (Schedule A), can be filed and maintained. Here again, there is no assumption or presumption that the first respondent is the Trustee of the alleged Trust, but for which the relief of

injunction, even as per the plaint, is not askable. The petitioner state that here again the foundational relief has not been sought rendering the plaint liable to rejection.

2.4 The valuation and court fee alleged and paid in the suit is impermissible. In so far as the Schedule A property, the first respondent seeks Injunctive Relief on the basis that the property belongs to an alleged Trust and also that he the Trustee of the same. Title of Lakshmiammal, her locus to execute a Will and also veracity of the alleged Will being in dispute, it is not known how the first respondent can seek mere relief of injunction presuming all of the above. Further, the relief of Injunction in respect of Schedule A property is sought on the ground that it belongs to a trust and the first respondent is the trustee. But the title of the alleged Trust and/or the status of the first respondent as Trustee being disputed, the correct and applicable provision of law would Sec 27(a). This more so when it can be seen from the plaint that neither the title of Lakshmiammal nor the alleged Will have been accepted by the defendants, but disputed. The plaint without paying ad valorem court fee on market value, in respect of Schedule A property, is as such liable to be rejected. The first respondent not being in possession, the suit without seeking the relief of possession is not sustainable. In any event and in the interest of justice, the present plaint in the above suit ought to be rejected. Hence this petition.

3. Counter statement filed by the 1st respondent/ 2nd defendant:

3.1 At the outset, the averments made in the affidavit filed in support of the present petition are false, frivolous, vexatious, and not maintainable either on facts or in law. Except such statements as are specifically admitted herein, all other allegations are hereby specifically denied and put to strict proof. The allegation that Lakshmiammal was the absolute owner of the suit property and executed a valid Will dated 30.09.1985 in favour of a religious trust is false. The plaintiff has sought declaration and injunction in respect of Schedule "B"

property and bare injunction in respect of Schedule "A" property. These claims are based on mere presumptions without legal foundation. It is specifically submitted that Lakshmiammal had only a life interest under the Partition Deed dated 11.05.1955 (marked as Document No.1). She never acquired absolute ownership, and therefore, the alleged Will dated 30.09.1985 is without authority. The plaint does disclose a valid cause of action, since the plaintiff seeks adjudication on the validity of title, applicability of Section 14(1) vis-à-vis Section 14(2) of the Hindu Succession Act, 1956, and on the genuineness of the alleged Will. The petitioner has deliberately misconstrued the scope of Section 14 of the Hindu Succession Act. Whether Lakshmiammal became the absolute owner under Section 14(1) or whether her rights were restricted under Section 14(2) is a mixed question of law and fact requiring evidence. Such an issue can only be determined at the time of trial and cannot be disposed of at the threshold under Order VII Rule 11 CPC. The question of genuineness, voluntariness, and validity of the alleged Will dated 30.09.1985 is an issue that can only be decided on evidence. The plaint has sufficiently disclosed the cause of action, and the maintainability of the suit cannot be questioned at this preliminary stage. The relief sought in respect of Schedule "A" and "B" properties arises from common facts and the same transaction, and therefore, the suit is not bad for mis-joinder of causes of action.

3.2) The contention that the plaintiff cannot maintain the suit in his personal capacity as well as Trustee is baseless and liable to be rejected. The valuation and court fee have been correctly computed. The allegation of under-valuation is false. Even otherwise, as held by the Hon'ble Supreme Court, if valuation or court fee is disputed, the court must grant opportunity to correct it, and rejection of plaint is not automatic under Order VII Rule 11(b) or (c). The present suit does not fall under any of the clauses of Order VII Rule 11 CPC. The plaint discloses a clear cause of action, is properly stamped, and is not

barred by limitation or any law. Order VII Rule 11 CPC permits rejection of plaint only if the plaint fails to disclose a cause of action, is undervalued and not corrected, is insufficiently stamped and not rectified, or is barred by law. None of these conditions are attracted in the present case. It is settled law that for deciding an application under Order VII Rule 11, the court must look only into the averments in the plaint and assume them to be true. When the plaint raises arguable issues requiring trial, it cannot be rejected at the threshold. The petitioner has suppressed material facts and indulged in forum shopping. Despite pendency of the present civil suit, the petitioner, colluding with revenue officials, has illegally effected name transfer in patta records, contrary to the principle laid down by the Hon'ble Supreme Court that revenue authorities cannot decide title when civil litigation is pending. The Hon'ble Court has already granted status quo in I.A. No. 6/2025, which is still in force. The present application has been filed only to delay proceedings and harass the plaintiff. Since the dispute essentially involves questions of title, applicability of Section 14(1) or 14(2) of the Hindu Succession Act, and genuineness of the Will, these are triable issues that must be adjudicated only after full-fledged trial. The present application is therefore not maintainable. Hence, this petition may be dismissed with cost.

4. Point for consideration is, whether the petition can be allowed or not?

5. Heard perused

6. It is argued by the petitioner's counsel that, the petitioner herein, is 3rd defendant in the original suit, the 1st respondent had filed this original suit against the petitioner and two others, declaration, permanent injunction, and other reliefs. The 1st respondent / plaintiff had averred in the plaint that the scheduled properties were originally owned by one Lakshmiyammal, who executed a Will, dated 30.09.1985, under which the B schedule property was bequeathed in favour of 1st respondent/plaintiff and the A schedule was

bequeathed to a religious trust, of which, the 1st respondent is a trustee. On the basis of title, the 1st respondent sought declaration and injunction in respect of B schedule property, and a bare injunction in respect of the A scheduled property. It is further contended that the said Lakshmiyammal had only a limited interest in the scheduled properties, and after her life time, her rights reverted to the petitioner's family as per the partition deed dated 11.05.1955. Therefore, she had no right to bequeath the scheduled properties in favour of the 1st respondent or the religious trust of which the 1st respondent is a trustee. It is further contended that the 1st respondent misconceived that Lakshmiyammal was an absolute owner, contrary to law. In this regard, the petitioner submits that the 1st respondent ought to have sought foundational reliefs, such as declarations regarding Lakshmiyammal's legal right over the property and the validity of the Will said to have been executed by her. The 1st respondent has filed the suit in his personal capacity as well as in his capacity as trustee of the temple, in respect of the scheduled properties. Therefore, it is contended that the suit is not maintainable, and that the court fee paid by the 1st respondent is undervalued. Hence, the plaint is liable to be rejected at the threshold stage.

7. On the other hand, the learned counsel for the 1st respondent vehemently objected to allowing this application. He submitted that Lakshmiyammal had only a life interest over the scheduled properties under the partition deed dated 11.05.1955, but after the advent of Section 14(1) of the Hindu Succession Act, 1956, she became the absolute owner. He further contended that the above issues are mixed questions of law and fact, which can be decided only after a full-fledged trial. He also argued that the genuineness, voluntariness, and validity of the alleged Will can be determined only on the basis of evidence. Since the plaintiff has disclosed a cause of action, the maintainability of the suit cannot be decided at this preliminary stage. As per Order VII Rule 11 CPC, rejection of plaint is permissible only on specific

grounds such as non-disclosure of cause of action, undervaluation of the suit, insufficiency of stamp duty, or the suit being barred by limitation. The reasons assigned by the petitioner do not fall under these categories. Therefore, this petition is liable to be dismissed.

8. Upon considering the submissions of both sides and perusal of the available records, it is seen that the plaintiff has averred in the plaint that the scheduled properties were originally owned by Lakshmiyammal, who obtained title under the partition deed dated 11.05.1955, wherein C-schedule property was allotted to her. Initially, she had only a limited interest in the said C-schedule property, but after the advent of Section 14(2) of the Hindu Succession Act, she became the absolute owner. In that capacity, she executed a registered Will on 30.09.1985 in favour of the 1st respondent/plaintiff and a trust. It is further pleaded that under the said Will, the A-schedule property was bequeathed to the temple trust, and the B-schedule property was bequeathed to the 1st respondent/plaintiff. After the death of Lakshmiyammal, the Will came into effect, and hence, the 1st respondent/plaintiff and the trust became the title holders. The petitioner, being the legal heir of Lakshmiyammal's husband's brother, along with other defendants, interfered with the peaceful possession and enjoyment of the 1st respondent and the trust. Therefore, the 1st respondent filed this suit both in his personal capacity and as trustee of the temple trust, seeking declaration, permanent injunction, and other reliefs.

9. The petitioner, as 3rd defendant, contended that as per the partition deed dated 11.05.1955, Lakshmiyammal did not have absolute ownership over the scheduled properties and had only a limited interest, which would revert to the petitioner's family after her lifetime. Therefore, the Will executed on 30.09.1985 was illegal, invalid, and not binding. The petitioner further submitted that the 1st respondent has not sought foundational reliefs regarding the title of Lakshmiyammal or her capacity to execute the Will, and that the suit

filed in dual capacities is not maintainable. It is also contended that the suit is undervalued and hence, the plaint must be rejected at the preliminary stage.

10. Upon consideration of the submissions and perusal of the plaint averments and documents, it is seen that the 1st respondent/plaintiff claims title to the scheduled properties on the basis of the Will dated 30.09.1985 executed by Lakshmiyammal, whose title originated from the partition deed dated 11.05.1955. It is admitted in the plaint that only a life interest was given to Lakshmiyammal under the said partition deed. However, the plaintiff contends that after the advent of Section 14(1) of the Hindu Succession Act, Lakshmiyammal became the absolute owner, and hence, the life interest merged into absolute ownership. The plaintiff's contention that whether Lakshmiyammal was an absolute owner and whether she had the capacity to execute the Will are mixed questions of law and fact is plausible. Such issues cannot be decided without a full-fledged trial. On the issue of undervaluation of the suit, this Court finds no infirmity in the court fee paid by the plaintiff. Similarly, the contention regarding the dual capacity of the plaintiff in filing the suit does not fall under the grounds enumerated in Order VII Rule 11 CPC. Therefore, for the foregoing reasons, this petition is dismissed as devoid of merits, no cost.

11. Result,

In the result, this petition is dismissed, no cost.

Dictated by me to the Steno-Typist, transcribed in Short-hand, computerized by her and corrected by me and pronounced in the Open Court on this the 1st day of November, 2025.

IVth Additional District Judge,
Udumalpet.

Both sides witness and Exhibits : Nil.

IVth Additional District Judge,
Udumalpet.

Fair/ Final Order
IA No.8/2025 in
O.S.No.127/2025
D.D: 01.11.2025
IVth ADJ Udumalpet