

**IN THE COURT OF THE DISTRICT MUNSIF, THIRUVOTTRIYUR**  
**THIRUVALLUR DISTRICT.**

**Present:** Selvi. K. Malarkodi, B.A.,B.L.,  
District Munsif,  
Thiruvottriyur

**Thursday, this the 25<sup>th</sup> day of July 2024**

**I.A.No.03 of 2021**

**in**

**O.S.No.60/2020**

1.M.Renuka

2.R.Saravanan

3.M.Rajabhusan

4.Mariappan

...Petitioners/Defendants

//Vs//

E.Murugesan

...Respondent/Plaintiff

This petition came up on 04.07.2024 for final hearing before me in the presence of Thiru.R.Dhamodaran and Tmt.Arulmozhi Counsels for Petitioners/Defendants and Tmt.P.Shanmugapriya Counsel for the Respondent/Plaintiff and upon perusing the available records upon hearing the enquiry on both sides and having stood over for consideration till this date this court made the following:-

**ORDER**

This petition is filed by the petitioners/defendants under Order 7 Rule 11 r/w.151 of CPC to reject the plaint in O.S.No.60 of 2020 and for costs.

**2. The averments of the petition/affidavit filed by the petitioners/defendants in short are as follows:**

The petitioner stated that he is the 4<sup>th</sup> petitioner/ 4<sup>th</sup> defendant in the above suit and filed the affidavit on behalf of other petitioners. The petitioner stated that the respondent/plaintiff has filed a suit for permanent injunction against petitioners/defendants herein and that this court has also granted interim injunction in I.A.No. 1/2020 in O.S.No.60/2020. Further, stated that the 1<sup>st</sup> petitioner/ 1<sup>st</sup> defendant was the absolute owner of the property measuring an extent of 1200 sq.ft. land at Sir C.V.Raman Street, Manali, Chennai-68, she having purchased the same from one Mr.B.Suryakumar by means of a sale deed dated 26.08.1991 vide Doc.No.3046/1991 at SRO- Thiruvottiyur. The 1<sup>st</sup> petitioner/ 1<sup>st</sup> defendant had put up a construction in 250 sq.ft. on the said land and was living there with her son Mr. Raja and his family. Due to financial constrains, retaining 500 sq.ft. land and building she sold out remaining 700 sq.ft. of vacant land lying on the eastern side of the plot to one Mrs.Mariyammal vide Sale Deed No.7266/13, dated 03.10.2013 at SRO-Thiruvottiyur. Since Mr.Raja, son of the 1<sup>st</sup> petitioner lost his employment, the family was suffering and that the 1st petitioner Tmt.M.Renuka has to sell 250 sq.ft. vacant land retaining 250 sq.ft. land and building for her own use to Mr.Rajabushan, the 3<sup>rd</sup> petitioner/ 3<sup>rd</sup> defendant herein vide Sale deed No.4523/19, dated 10.06.2019 at SRO, Tiruvottriyur. After selling this, the 1<sup>st</sup> petitioner has settled the balance 250

sq.ft. land and building (the suit property) in favour of his grandson Mr.Saravanan, the 3<sup>rd</sup> defendant. Further, stated that the 2<sup>nd</sup> petitioner/ 2<sup>nd</sup> defendant, thereafter, has mortgaged the said 250 sq.ft. land and building (the suit property) to one Mrs.Sabitha W/o.Vijayakumar and raised a loan of Rs.1,00,000/- vide mortgage deed No.3682/2020, dated 17.08.2020. Since the said mortgage was without possession and that as the 2<sup>nd</sup> defendant has to move out of Manali owing to his new employment, he permitted his grandmother's brother Mr.Murugesan (the plaintiff) to occupy the said 250 sq.ft. The 2<sup>nd</sup> defendant was forced by the mortgagor to pay the loan he could not mobilize funds and so he decided to sell the balance 250 sq.ft. (suit property) after discharging the mortgage loan on 19.10.2020 Thiruvottriyur. vide Doc.No.5694/2020, at SRO. Therefore the 2<sup>nd</sup> defendant (Mr.R.Saravanan) sold out the balance 250 sq.ft. (suit property) to the 3<sup>rd</sup> petitioner/ 3<sup>rd</sup> defendant for a valuable consideration vide Sale Deed No.5723/2020, dated 19.10.2020 at SRO,Thiruvottiyur. Thus out of the entire 1200 sq.ft. land purchased by the 1st defendant at Sir.C.V.Raman Street, Manali, 950 sq.ft. was sold out by its original owner Tmt.Renuka and the balance 250 sq.ft. was sold out legally by Renuka's grandson i.e. the 2nd defendant (the lawful settlee). Thus the plaintiff who was a permissive occupant from the year 2017 was squatting on the said 250 sq.ft.(suit property) and refusing to vacate and deliver vacant possession to the lawful purchaser, i.e. the 3<sup>rd</sup> petitioner/ 3<sup>rd</sup> defendant which is quite illegal, unlawful and unsustainable. The 3<sup>rd</sup> petitioner after the purchase in October, 2020 plaintiff has also

illegally got the suit property assessed to property tax, water tax etc. in his name without any title documents. Therefore he took steps to cancel the property tax assessed in the name of the plaintiff by the corporation authorities and that the corporation authorities after enquiry have deactivated and cancelled the assessment of property tax in the name of the plaintiff vide their letter Ma.Aa.2.Va. Thu.Na.Ka. Aal/4142/2020, dated 26.12.2020. The 1<sup>st</sup> petitioner preferred a complaint against the plaintiff before Manali Police on 22.11.2020 for taking action against his illegal possession of the said property on the request of the 3<sup>rd</sup> petitioner/ 3<sup>rd</sup> defendant after the purchase of the same by him on 19.10.2020, CSR copy for the said complaint was also given by Manali Police to the 1<sup>st</sup> defendant. The plaintiff has approached this court with unclean hands by stating bundle of lies and a series of false hoods. He has abused the process of court by misrepresentation and suppression of facts and that there is no cause of action, prima facie to institute the suit. Hence this petition.

**3. The averments of the counter filed by Respondent/plaintiff in short are as follows:-**

The respondent stated that the respondent/plaintiff is in possession and enjoyment of the suit property without any encumbrance. He has filed the necessary documents along with the plaint to prove his possession and enjoyment of the suit property. Further, the respondent/defendant stated that there is cause of action for which complaint was given to the Commissioner of Police and the same also has

been filed as a document along with the plaint. He has approached this court with clean hands and there is no suppression of facts. The petitioners/ defendants instead of filing the written statement and counter in this suit, they have filed this petition with lots of lies to drag the court proceedings with malafide intention. Hence this petition is liable to be dismissed.

4. Now, the point for consideration is whether the petition filed Under Order 7 Rule 11 r/w.151 of CPC has to be allowed or not?

5. The petition, counter and other materials available on records were carefully perused. On the petitioner side Exhibit P1 to Exhibit P4 were marked and no documents marked on the respondent side. Both side have not examined any witness. Written arguments filed by the petitioner's counsel along with one citation and respondent counsel also filed his written arguments.

6. The learned counsel for the petitioner placed reliance on the Judgment of the Hon'ble High Court of Madras in **C.R.P.(PD) Nos. 2809 of 2010 and C.R.P.(PD) No. 2812 of 2011 and C.R.P.(PD) Nos. 4224 to 4227 of 2013 C.R.P.(PD) No.2809 of 2010 in a case between Lakshmi vs P.Manickam dated 03.03.2017** in support of their case.

7. Materials perused. Heard on both sides.

8. Admittedly, the suit is filed for the relief of permanent injunction against the defendants, their men, agents, servants etc., thereby restraining them from interfering with the plaintiff's peaceful possession and enjoyment of the schedule mentioned property.

9. According to the petitioners/defendants the 1<sup>st</sup> petitioner is the absolute owner of the property to an extent of 1200 sq.ft purchased by her vide a registered sale deed dated 26.08.1991 in which she had put up construction in 250 sq.ft and living with her son's family. The 1<sup>st</sup> petitioner sold 700 sq.ft of vacant land lying on the on the eastern side of the plot to one Mariaammal vide registered sale deed dated 03.10.2013 by retaining 500 sq.ft land and building. Further, the 1<sup>st</sup> petitioner sold 250 sq.ft vacant land retaining 250 sq.ft land and building to one Rajabhusan vide registered sale deed dated 10.06.2019. Later the 1<sup>st</sup> petitioner settled the balance 250 sq.ft land and building the suit property herein in favour of his grandson who is the 2<sup>nd</sup> petitioner in this petition. The 2<sup>nd</sup> petitioner mortgaged the 250 sq.ft land and building which was settled in favour of him to one Sabitha and raised a loan of Rs.1,00,000/- vide registered mortgaged deed dated 17.08.2020 and the said mortgaged was without possession. Due to his employment he permitted his grandmother's brother Murugesan who is the plaintiff herein to occupy the suit property in the year 2017. The 2<sup>nd</sup> petitioner could not mobilised the funds therefore to decided the sell the suit property after discharging the mortgage loan on

19.10.2020. Therefore 2<sup>nd</sup> petitioner sold the suit property to the 3<sup>rd</sup> petitioner for a valuable consideration vide registered sale deed dated 19.10.2020. Hence the entire 1200 sq.ft land purchased by the 1<sup>st</sup> petitioner was sold out by her and also her grandson namely in 2<sup>nd</sup> petitioner. Further, the respondent illegally got suit property assessed the suit property to property tax, water tax etc., in his name without any title documents. The Corporation authority after enquiry have deactivated and canceled the assessment of property tax in the name of the respondent vide letter dated Ma.Aa.2.Va. Thu.Na.Ka. Aal/4142/2020, dated 26.12.2020. Further, the police complaint was also lodged against the respondent. Therefore the respondent had approached this court with unclean hands and abused the process of court by misrepresentation and suppression of facts. And there is no cause of action for the institution of the suit.

10. Per contra, the respondent contended that he is in possession and enjoyment of the suit property without any encumbrance and filed the necessary documents along with the plaint to prove his possession and enjoyment of the suit property. Further, the respondent/defendant stated that there is cause of action for which complaint was given to the Commissioner of Police and the same also has been filed as a document along with the plaint. He has approached this court with clean hands and there is no suppression of facts.

11. Now, in the present case the petitioners filed this petition for rejection of plaint, on the grounds of mis-representation, suppression of facts and no cause of action before this court.

**Order 7 Rule 11 contemplates that**

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) Whether the relief claimed is properly valued but the plaint is written 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

Undoubtedly, rejection of plaint is a matter of the court's discretion that has to be exercised with circumspection. It is a jurisdiction which should be sparingly exercised only in special case.

12. As per the petition mentioned averments, the petitioners has stated that the respondent/plaintiff had filed a suit by mis-representation, suppression of facts and no cause of action.

13. The main contention of the petitioners/defendants is that there is no cause of action for the institution of the suit. And the cause of action mentioned in the plaint is illusory. It is settled law that the cause of action is bundle of facts. Therefore, the plaint cannot be rejected on the ground of non-disclosure of cause of action.

14. Coming to the aspect of mis-representation and suppression of facts by the plaintiff, whether the plaintiff had approached this court with unclean hands and committed suppression of facts and mis-representation can be decided only at the time of trial. The plaintiff have to lead evidence at the trial. Therefore, the plaint normally cannot be rejected at the inception without having evidence. So, in this legal premise the court is of the view that the plaint cannot be rejected on the ground of mis-representation and suppression of facts by the plaintiff before trial.

15. Therefore, no any ground is available to attract the provision of Order 7 Rule 11 of CPC. Thus, this court has considered that this application is devoid of merits and liable to be dismissed.

**In the result, the petition is dismissed and no orders as to costs.**

Dictated directly to the steno-typist, typed by her in the computer, corrected and pronounced by me in open court, this the 25<sup>th</sup> day of July 2024.

District Munsif,  
Thiruvottriyur.

**List of exhibits and witnesses on petitioner sides:**

Ex.P1 – Sale deed dated 03.10.2013 (Xerox copy)

Ex.P2 – Sale deed dated 10.06.2019 (Xerox copy)

Ex.P3 - Sale deed dated 19.10.2020 (Xerox copy)

Ex.P4 - Letter from the Assistant Revenue Officer dated 12.07.2021 (Xerox copy)

**List of exhibits and witnesses on respondent side: Nil**

District Munsif,  
Thiruvottriyur.