

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

PRESENT: Tmt. V. Vannamalar, M.L., PGDIPR., PGD in CrI. & Fr.Sc.,
District Munsif, Ponneri.

Thursday, the 27th day of March 2025.

I.A.1 of 2020
in
O.S.No.152 of 2015

1. P.Kumar
2. K.Maheshwari
3. K.Jayachithra

..... Petitioners/Defendants

Versus

S.Kannimma

..... Respondent/Plaintiff

This petition came before me on 04.03.2025 before this court for final hearing in the presence of Mr.A.Muniraja, Mrs.S.Akila, Mr.Sekar, learned counsels for the petitioners/Defendants and Mr.G.Nanthagopal, learned counsel for the Respondent/Plaintiff. Upon hearing the arguments made by the learned counsels for the petitioners and the respondent and on perusal of the material case records, this Petition having stood over for consideration till this day, this Court delivers the following:

ORDER

1. This application is filed under Order VII Rule 11 of CPC to reject the plaint in OS.No.152 of 2015.

2. Brief averments of the affidavit filed by the petitioners are as follows:

2.1. The 1st petitioner submits this affidavit on his behalf and on behalf of the other petitioners. The 1st petitioner submits that the 2nd petitioner is his wife and the 3rd petitioner is his daughter. The 1st petitioner submits that the respondent who is the plaintiff in the suit has filed the suit for a relief of permanent injunction as against the

petitioners restraining them from disturbing the respondent's peaceful possession and enjoyment of the suit property. The 1st petitioner submits that he is the elder brother of the respondent and that the respondent claims right over the suit property based on a Will dated 09.12.2009 alleged to have been executed by her father. The 1st petitioner denies existence of the said Will.

2.2. The 1st petitioner further submits that on 09.12.2009 his father had executed an unregistered Will in respect of the suit property and that the beneficiaries under the said Will as set out under the terms of the Will in respect of the suit property are the 1st petitioner along with his brother and his predeceased brothers' legal heirs and the respondent herein. By virtue of the said Will dated 09.12.2009 the 1st petitioner's mother Saroja was bequeathed with the pension benefits of the father of the 1st petitioner. The 1st petitioner further states that he was entrusted with the duty of selling the suit property for a good sale price at an appropriate time and to share the proceeds as mentioned in the said Will. The 1st petitioner further states that when this being so the respondent has filed this suit with an intention to grab the suit property further the respondents has not produced the said Will before this court. There is no cause of action for this suit.

2.3. The 1st petitioner further submits that though the respondent claims that her husband has been appointed as an executor in the said Will, the respondent's husband has not filed this suit. Hence the respondent/plaintiff has no right to sue based on the alleged Will and that the suit is liable to be rejected as it does not have any cause of action. The cause of action as stated in the plaint is imaginary and non existent.

2.4. The 1st petitioner further submits that his father N.Pakkirisamy had executed only one unregistered Will dated 09.12.2009 and that the same is his last Will and testament. There is no other Will or Codicil executed by the said Pakkirisamy according to the said unregistered Will all the legal heirs of Pakkirisamy are co-owners of the suit property. No injunction can be granted against the co-owners.

Hence this suit is liable to be rejected on the grounds of non disclosure of cause of action and that it is barred by law. Hence this petition.

3. Brief averments of the counter filed by the respondent are as follows:

The respondent submits that the defendants tried to forcibly dispossess and evict the respondent from the suit property and hence the suit was filed by the respondent. When the suit was pending for cross examination of PW1 the petitioners have filed this application to reject the plaint. The respondent submits that the cause of action is bundle of facts and they are to be proved by letting in evidence and by examining the witnesses. The respondent further denies the averments made by the 1st petitioner in his affidavit that the said Pakkirisamy had executed only one unregistered Will dated 09.12.2009 as false. Further the respondent denies that the petitioners are co-owners to the suit property. Also the respondent states that an injunction shall be ordered to one co-owner when the other co-owner of the property causes injustice and irreparable loss. Further in the plaint cause of action has been disclosed. Hence this petition is devoid of merits and is liable to be dismissed with exemplary costs.

4. Neither the petitioners nor the respondent have placed any oral evidence before this court. The petitioners have submitted Exhibits P1 to P3 on their side and the respondent has submitted Exhibits R1 to R6 on her side. Now, it is the paramount duty of the court to decide whether this petition is to be allowed or not.

5. Heard both sides. Records Perused. Perused the written arguments filed on the side of the petitioners.

6. It is well settled principle of law that for rejection of a plaint under Order VII Rule 11 of CPC, the court can look into only the plaint and plaint documents. At this stage, the merits of the pleadings and the averments in the written statement cannot be considered and no amount of evidence can be looked into to arrive a conclusion. The plaint may be rejected only on satisfaction of anyone of the grounds mentioned in

Order VII Rule 11 of CPC. In consideration of these dictums, this court perused and dealt with the contentions of both the parties in the case.

7. On the side of the petitioners, they have submitted Exhibits P1 to P3 to support their case. Exhibit P1 is the Will dated 09.12.2009 executed by N.Pakkirisamy. Exhibit P2 is the Certified copy of a certificate issued by the Guild of service(c) Seva Samajam Boys Home Industrial School. Exhibit P3 is the certified copy of the sale deed dated 21.03.1988 registered as document No.1042/1988 at the office of the Sub Registrar, Ponneri. On the side of the respondent, she has submitted Exhibits R1 to R6 to support her case. Exhibit R1 is a certified copy of the sale deed dated 21.03.1988 registered as document No.1042/1988 at the office of the Sub Registrar, Ponneri. Exhibit R2 is a copy of the complaint letter dated 21.01.2013 given by the respondent to the Superintendent of Police, Thiruvallur District. Exhibit R3 is the Acknowledgment receipt dated 21.01.2013 issued for the receipt of the petition in No.17/2013. Exhibit R4 is the summons issued by the Inspector of Police, District Crime Branch, Thiruvallur District to the respondent. Exhibit R5 is the Legal notice dated 16.03.2014 issued by the 1st petitioner's counsel to the respondent. Exhibit R6 is the CSR bearing No.114/2015 dated 30.06.2015.

8. On careful consideration of the rival submissions made by both the parties and the evidences submitted by them, this court finds that the petitioners are defendants in the suit and the respondent is the plaintiff in the suit and the suit has been filed by the respondent / plaintiff for a relief of permanent injunction as against the defendants in the suit to restrain them from in any way interfering with the plaintiff's peaceful possession and enjoyment of the suit property. When the suit is pending this petition has been filed by the defendants to reject the plaint stating that the cause of action as mentioned in the plaint is illusory and not correct and that since the relief of permanent injunction has been prayed as against the defendants who are co-owners to the plaintiff relating to the suit property, the suit is barred by law. Further when the

plaintiff claims rights over the suit property based on a Will dated 09.12.2009, the defendants also claim right over the said property based on an another Will dated 09.12.2009. Further, the respondent objects to allow this petition stating that the cause of action as stated in the plaint is true and it can be proved only by letting in evidence and by examining the witnesses. Further, the respondent further denies that the petitioners are co-owners to the suit property and thus there is a title dispute with respect to the suit property, which can only be decided after detailed evaluation of evidence in the suit.

9. On careful analysis this court finds that the plaintiff has disclosed a cause of action in Para 16 of the plaint stating various facts that led to a dispute between the plaintiff and the defendants. The plaintiff in the suit states that she obtained right over the suit property vide a Will dated 09.12.2009 and that she is in possession of the suit property and that the defendants are trying to dispossess her from the suit property and prays for a permanent injunction as against the defendants. Though the petitioners / defendants contend that the cause of action as stated in the plaint is not true, the petitioners have not submitted any evidence to substantiate the same.

10. In the light of the above discussion and findings and on consideration of the pleadings contained in the plaint and the documents thereof, this court opines that the plaintiff has established a prima facie cause of action against the defendants and this court also takes judicial note of the well settled principle of law that the merits and demerits of the pleadings and that if the plaintiff is entitled to the relief as prayed for can be decided only after trial, when the case of the plaintiff is proved through ocular and documentary evidence. The truth of the pleadings and the entitlement to the relief cannot be determined in this petition to reject the plaint.

11. In the above stated scenario, this court considers that the contentions raised by the petitioner cannot be decided now and the same has to be decided only upon conducting a full trial in the suit. Further, this court finds that it is necessary that a

fair opportunity ought to be granted to both the parties to let in their oral and documentary evidence to substantiate their side of the case before deciding the case on merits.

12. In the above circumstances, this court is not inclined to allow this petition and considering the facts and circumstances of the case, this court is of the considered view that the parties shall bear their own costs.

13. In the result, this Petition is dismissed. No costs.

Dictated by me to the steno-typist, who directly typed the same, corrected and pronounced by me in the open court, on this the 27th day of March 2025.

**DISTRICT MUNSIF
PONNERI**

List of witnesses on the side of the petitioners: NIL

List of documents on the side of the Petitioners:

Exhibits	Date	Description of Documents
Exhibit P1	09.12.2009	Original unregistered Will
Exhibit P2	26.02.2015	Certified copy of a certificate issued by the Guild of service(c) Seva Samajam Boys Home Industrial School
Exhibit P3	21.03.1988	Certified copy of the sale deed registered as document No.1042/1988 at the office of the Sub Registrar, Ponneri.

List of witnesses on the side of the respondent: Nil

List of documents on the side of the respondent:

Exhibits	Date	Description of Documents
Exhibit R1	21.03.1988	Certified copy of the sale deed registered as document No.1042/1988 at the office of the Sub Registrar, Ponneri.
Exhibit R2	21.01.2013	Xerox copy of the complaint letter given by the respondent to the Superintendent of Police, Thiruvallur District
Exhibit R3	21.01.2013	Original Acknowledgment receipt for the petition in No.17/2013
Exhibit R4	--	Original summons issued by the Inspector of Police, District Crime Branch, Thiruvallur District to the respondent
Exhibit R5	16.03.2014	Original of the legal notice issued by the 1 st petitioner's counsel to the respondent
Exhibit R6	30.06.2015	Original CSR bearing No.114/2015

**DISTRICT MUNSIF
PONNERI**

Fair/ Draft Order
IA No.1 of 2020 in
O.S.No.152/2 015
Date:27.03.2025

DMC,PNI