

IN THE COURT OF THE DISTRICT MUNSIF, TIRUTTANI

Present : Tmt. R.D. Gurulakshmi, M.A., M.L., P.G.D.I & C.L.,

District Munsif, Tiruttani.

Dated the Thursday of 29th Day of January 2026

IA.No.8 OF 2025 OS.No.73 OF 2021

(CNR.No.TNTR21-000083-2021)

...

S. Navaneethamma

... Petitioner/ Plaintiff

/Versus/

1. Govindamal (died)

2. Balakrishnan

3. Kesavulu

4. Santhi

5. Sumathi

... Respondents/Defendants

This petition came up before me for the final hearing on 19.01.2026 in the presence of M/s. K. Selvamani, P. Padmanabham, R. Arundhathi, Advocates for Petitioner/Plaintiff, R1 died, M/s. G. Kamalakannan, Counsel for 2 to 5 Respondents/Plaintiffs. Upon hearing both sides and having stood over for consideration till this day, this court delivered the following:

ORDER

The petition is filed by the petitioner under order 23 Rule 1 of CPC to permit the petitioner/plaintiff to withdraw this suit.

1. **Petition averments in brief:-**

(a) This suit is for permanent injunction. There is a connected, comprehensive suit filed by this petitioner in respect of this suit property in OS.No.225/2022 on the file of Hon'ble Sub Court, Tiruttani. The issues involved in both the suits are same. To avoid any conflicting judgment being passed in the two suits, petitioner filed transfer petition before Hon'ble District Court, Tiruvallur in Tr.O.P.No.187/2025 and the same was posted on 06.08.2025. The respondents/defendants in this suit are the respondents in the said Transfer O.P.No.187/2025 in which the respondents had taken time for filing their counter.

(b) The petitioner is concentrating in the said Transfer OP, in the meantime the hearing of the present suit has been posted for trial on 03.04.2025. The petitioner has already filed all the original title deeds in this suit. Since petitioner filed all the

original documents in this suit, petitioner not able to file the same before the OS.No.225/2022. This court is very keen in conducting this suit, and for non production of evidence, petitioner's side evidence was closed and posted for defendants side evidence. Therefore the present suit became unnecessary and the appropriate relief can be obtained in the OS.No.225/2022. No prejudice will be caused to other side by permitting the petitioner to withdraw the present suit. Hence this petition is filed.

2. **Counter filed on behalf of the Respondents in brief:-**

(a) This petition is not maintainable either in law or on facts. This petition is filed in this stage of defendant side evidence. The suit is prior to OS.No.225/2022, whereas the prayer also different. It is false to say that this suit is connected, comprehensive. The issue involved in the present suit as well as OS.No.225/2022 is one and the same. The cause of action in the suits are distinct in nature. So it is clearly barred under Order 2 Rule 2 of CPC. It is false to say that there is a possibility of conflicting judgment being passed in both cases, and the petitioner moves Tr.OP.No.187/2025. The evidence of Pw1 suomoto closed by this court.

(b) The petitioner wantonly dragon the proceedings in EP.No.12/2011 on the file of Hon'ble Subordinate Judge, Tiruttani. There is a suppression of fact in this case. It is false to say that original documents may not be produced in OS.No.225/2022. The Tr.OP.No.187/2025 is pending for enquiry and no stay is granted. This petition filed unnecessarily without proper reasons. Plaintiff not ready to proceed the case. So Plaintiff side evidence closed. Plaintiff not took any steps to reopen the case of plaintiff side. Since the petitioner not established her case with proper evidence. This petition is time barred. The petitioner not approached this court with clean hands. Hence this petition is liable to be dismissed.

3. **Point for determination:-**

Whether the petitioner is entitled to the relief as prayed for? or not?

4. Heard both sides. According to the petitioner, there is a connected, comprehensive suit filed by this petitioner in respect of this suit property in

OS.No.225/2022 on the file of Hon'ble Sub Court, Tiruttani. The issues involved in both the suits are same. To avoid any conflicting judgment being passed in the two suits, petitioner filed transfer petition before Hon'ble District Court, Tiruvallur in Tr.O.P.No.187/2025 and the same was pending. In the mean time this court was keen in conducting the case. The original documents are produced in this case. Further the present suit became unnecessary and the appropriate relief can be obtained in the OS.No.225/2022. Hence the Counsel for petitioner prays to allow the petition.

5. The Respondents resisted the petition by contending that this petition is filed in this stage of defendant side evidence. The suit is prior to OS.No.225/2022, whereas the prayer also different. It is false to say that this suit is connected, comprehensive. The cause of action in the suits are distinct in nature. So it is clearly barred under Order 2 Rule 2 of CPC. The petitioner wantonly drag the proceedings in EP.No.12/2011 on the file of Hon'ble Subordinate Judge, Tiruttani. There is a suppression of fact in this case. It is false to say that original documents may not be produced in OS.No.225/2022. The Tr.OP.No.187/2025 is pending for enquiry and no stay is granted. This petitioner filed this petition without any bonafide reasons. Therefore, the Counsel for respondents prays to dismiss the petition with costs.

6. On perusal of records, the suit is filed for permanent injunction. Plaintiff side evidence closed on 03.04.2025. Now pending in the stage of Dw1 chief continuation. Petitioner filed this petition seeking permission to withdraw the suit. The Order 23 Rule 1 of CPC reads as follows:-

“Order XXIII Rule 1:-

1. Withdrawal of suit or abandonment of part of claim-(1) at any time after, the institution of a suit, the plaintiff may as against all or any of the defendants abandon is suit or abandon a part of his claim:

Provided that where the plaintiff is minor or other person to whom the provisions contained in rules 1 to 14 of Order XXXII extend, neither the suit nor any part of the claim shall be abandoned without the leave of the court.

(2) An application for leave under the proviso to sub-rule (1) shall be accompanied by an affidavit of the next friend and also, if the minor or such other person is represented by a pleader, by a certificate of the pleader to the effect that the abandonment proposed is, in his opinion, for the benefit of the

minor or such other person.

(3) Where the court is satisfied,-

(a) that a suit must fail by reason of some formal defect, or

(b) that there are sufficient grounds or allowing the plaintiff to institute a fresh suit for the subject-matter of a suit or part of a claim,

it may, on such terms as it thinks fit, grant the plaintiff permission to withdraw from such suit or such part of the claim with liberty to institute a fresh suit in respect of the subject-matter of such suit or part of the claim.

(4) Where the plaintiff-

(a) abandons any suit or part of claim under sub-rule(1), or

(b) withdraws from a suit or part of a claim without the permission referred to in sub-rule(3),

he shall be liable for such costs as the Court may award and shall be precluded from instituting any fresh suit in respect of such subject-matter or such part of the claim.

(5) Nothing in this rule shall be deemed to authorise the Court to permit one of several plaintiffs to abandon a suit or part of a claim under sub-rule(1), or to withdraw, under sub-rule(3), any suit or part of a claim, without the consent of the other plaintiffs.”

7. Petitioner simply praying this court that to avoid conflicting judgment, this suit is to be withdrawn. Suit can be withdrawn/abandon for the reason to file a fresh suit in the same cause of action or if there is a formal defects. No such reasons was stated by the plaintiff in this petition. As per the petitioner’s contention, already for the same cause of action another suit filed before the Hon’ble Sub Court, Tiruttani in OS.No.225/2022. Petitioner wantonly dragon the case by filing these type of petitions without any valid reasons. The reasons stated in the petition is not satisfactory to withdraw this suit. Considering the fact and circumstance, this court is of view that in the interest of justice, this petition has to be dismissed.

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

Dictated to my Steno – Typist, typed by her directly in computer, corrected and pronounced by me in open court, this the 29th day of January 2026.

District Munsif, Tiruttani.

Petitioner & Respondents side Exhibits and Witnesses :- Nil

District Munsif, Tiruttani.