

IN THE COURT OF THE DISTRICT MUNSIF AT AMBATTUR.

PRESENT: TMT.J.MADHUMITHA, B.A. B.L(HONS.), L.L.M.,
DISTRICT MUNSIF, AMBATTUR.

Tuesday, 16th day of September 2025.

INTERLOCUTORY APPLICATION NO.2 OF 2024

IN

ORIGINAL SUIT NO.64 of 2015
CNR.No.TNTR22 – 000064 - 2015

1. S.Ganesan

2. G.Uma @ Uma Mageshwari

3. Kullammal

.....Petitioners / Defendants

Versus

1. Mr.N.Chandran

2. Mr.Ranganayaki (died)

3. Mrs.N.Vasantha

4. Mrs.N.Pavun

.....Respondents/Plaintiffs

This petition having come on 25.08.2025 before me for final hearing in the presence of Shri.A.H.Srikanth, P.P.Reetha Safariya, K.Vijayalakshmi, S.Sivakumar and S.Sathiyaraj, Muralikrishnan, learned counsels for the Petitioners/Defendants, Smt.A.Laxmi Raj Rathnam, B.Bharanikkarasi and V.Anbarasu, learned counsels for the Respondents/Plaintiffs, and upon hearing the arguments made by the learned counsels for the petitioners and the respondents and on perusal of the records, this Petition having stood over for consideration till this day, this Court delivers the follow-

ing:

ORDER

1. Petition is filed under Section 11 and Order VII Rule 11(b) of CPC to reject the plaint in O.S. no.64 of 2015 on the file of this Hon'ble Court with exemplary cost.

The brief averments contained in the petition as follows : -

2. That the instant suit has been filed against me and my mother and wife for relief sought by the plaintiffs is to issue a direction to demolish constructed building in the property, and to issue an order of eviction to defendants and directing the defendants to vacate the premises belongs to the Plaintiffs. While so, the plaint documents filed along with the suit marked as Exhibit A3 and A4 will reveal that already a suit filed by the respondent/plaintiff in O.S No:569 of 2011 this Hon'ble court has already adjudicated pertaining to the suit property that the petitioner/1st Defendant is in absolute possession and enjoyment of the suit property measuring 1781 sq.ft as per the revenue record which is enumerated under the Judgment dated 08.04.2014 by this Court .That as per the judgment dated 08.04.2014, reveals that the petitioner/1st defendant is in absolute possession and enjoyment of the suit property and this Court has already decided the issue pertaining the dispute this respondent/plaintiff cannot seek any relief from this Court and remedy available to the respondent/plaintiff is by way of appeal not by the filing this instant suit and not maintainable before this Court.

3. That the prayer before this court is for demolishing constructed building and also for eviction of the defendants to vacate the premises which this respondent/plaintiff is not entitled for and this court has already decided the issue in the earlier suit in O.S. No.569 of 2011 and the suit is liable to be rejected on this ground. That the respondent/plaintiff has come before this Hon'ble Court by paying the court fee under Section 25(a) of the Tamil Nadu Court Fee and Suit Valuation Act which should be determined by deriving the market value of the property and not the value at Rs.1,000/- which the respondent/plaintiff has paid which is against the act and this court cannot entertain the suit as it is barred by pecuniary jurisdiction and suit is liable to be rejected. Hence for the foregoing reasons the respondents/plaintiffs filing this vexatious suit in O.S. No.64 of 2015 on the file of this Hon'ble court wherein the relief sought by respondents/plaintiffs is barred by limitation and hit by res-judicata as per section 11 of CPC and liable to reject the plaint.

The averments in the Counter filed by Respondent/Plaintiff, in brief are as follows :

4. The 1st respondent submit that the petitioners/defendants have filed this petition as an after thought that is at the stage of cross examination and further the 1st respondent submit that he is reiterating the plaint averment.

5. The plaintiffs submit that he filed a suit for permanent injunction before this Court which was numbered as O.S. No:569 of 2011. The plaintiff submits that in the

said suit the defendant herein has adduced in the evidence that he has 0.0169 Sq. Mt (1817.32 sq.ft) of land as per his SLR patta. Whereas his share as per document no:2233/1984 is only 1781 sq.ft of land. This itself shows that the defendant has encroached the plaintiffs land. The 1st plaintiff lodged a complaint to the Korattur police station who issued CSR vide no:638/14 and enquired the matter and told both the plaintiffs and the defendants to resolve the dispute by measuring the land through Government agencies whereas the defendants with intention to pick fight has launched a false counter complaint against the 1st Plaintiff in Korattur Police station and threatened the 1st plaintiff through his political and police influence. Hence the plaintiffs are left with no other option except to file this suit. The 1st respondent submit that the earlier suit was filed by this respondents for injunction and not for any other prayer and this suit is filed for direction to demolish the constructed building in the respondents property and the 1st respondent further submit that thus this suit will not fall under res judicata. The petition filed by the Petitioner/Plaintiff is not maintainable in law and is liable to be dismissed in limine.Hence prayed to accept this counter statement and to dismiss the petition.

6. The point for determination is to whether allow this petition or not.

Discussion and Findings-

7. Heard both sides, perused records. The petition grounds submitted before the Court that there is no cause of action to file the suit. The Court on perusal of the

provision for rejection of plaint observes that,

Order 7, Rule 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**

8. It is the main contention of the Petitioner that the suit is not maintainable, as it is hit by res-judicata. It is observed from Ex.P1 Judgment in O.S.No.569/2011 that the Respondents/Plaintiffs filed a suit for permanent injunction before this Hon'ble Court which was numbered as O.S. No:569 of 2011. Though the present suit is filed by the same Plaintiffs, against the same Defendants in O.S.No.569/2011, it is observed that the relief sought in this suit differs as, to issue a direction to demolish constructed building in the property, and to issue an order of eviction to defendants and directing the defendants to vacate the premises belongs to the Plaintiffs. As the subject matter in dispute is not directly and substantially the same as that in

O.S.No.569/2011, this suit is not hit by res-judicata, and thus is not barred by law under Order 7, Rule 11(d) CPC.

9. Further with regard to the suit relief, the respondent/plaintiff has paid the court fee under Section 25(a) of the Tamil Nadu Court Fee and Suit Valuation Act. It is contended by the Petitioner that the court fee should be determined by deriving the market value of the property and not the value at Rs.1,000/- which the respondent/plaintiff has paid which is against the act and this court cannot entertain the suit as it is barred by pecuniary jurisdiction. It is observed that the amendment regarding the alteration of fee structure to be the higher of the market value of the property or the fixed amount in the provision took effect from 01.03.2017. In the present case on hand, during the filing of the plaint on 23.02.2015, the court fee has been paid as 3% in Rs.1000/- as Rs.75.50/- only. Hence it is inferred that there is deficit Court fee for the relief (a) and (b) sought in the plaint. Yet, as per Order 7, Rule 11(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,”** and only on failing to correct the valuation, the Court can reject the plaint. Thus the plaint cannot be rejected through this petition, as the opportunity is yet to be granted by the Court.

RESULT-

10. Hence in the interest of Justice, this Court deems fit in providing an

opportunity to value the suit for the reliefs sought in the plaint as on date of 23.02.2015, and to pay the deficit court fee within one week from date of this Order.

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

Dictated to the steno-typist, typed directly by her in the desktop, corrected and pronounced by me in the open Court on this the 16th day of September 2025.

**Sd/-J.MADHUMITHA
District Munsif,
Ambattur.**

List of Petitioner side Witnesses : NIL

List of Petitioner side Exhibits :

Ex.P1 - 08.04.2014 - Judgment copy in O.S.No.569/2011

List of Petitioner side and Respondents Side Witnesses and Exhibits: NIL

**Sd/-J.MADHUMITHA
District Munsif,
Ambattur.**