<u>IN THE COURT OF THE DISTRICT MUNSIF, VANIYAMBADI</u>
Present: Thiru V.ESHWAR, B.E.,LL.B.,
DISTRICT MUNSIF, VANIYAMBADI

Dated this the 03 rd day of June, 2026

<u>I.A. No. 04 of 2026</u>
<u>in</u>
<u>O.S. No. 147 of 2025</u>

1. M. Sekar
2. S. Devi

...Petitioners No.1&2/Defendants No.1&2

Vs

1. K.Selvi
2. K. Senthamizh Selvan

...Respondents/Plaintiffs

3. The Sub-Registrar, Vaniyambadi
4. The Tahsildar, Natrampalli

...Respondents/Defendants No.3&4

This petition coming on 03.06.2026 for final orders before me in the presence of learned counsel Mr. **G. Moorthi** for the petitioner and learned counsel Mr**. S. Razaak** for the 1st & 2nd respondents and notice to 3rd and 4th respondents was dispensed with. Upon perusing the petition, Counter and other material records in this case, this Court doth pass the following:

<u>ORDER</u>

<u>(Petition filed U/O.7.R.11(a)(b)(c)&(d).r/w.141.151 of CPC)</u>

<u>Summary of the Case</u>

1. This interlocutory application has been preferred by the

petitioners/defendants 1 and 2 under Order VII Rule 11 (a), (b), (c) and (d) read with Sections 141 and 151 of the Civil Procedure Code, 1908, praying to reject the plaint in O.S. No. 147 of 2025 on the grounds of non-disclosure of cause of action, undervaluation, insufficiency of court fee, and an express statutory bar under the Specific Relief Act.

Case of the Petitioners / Defendants 1 & 2

2. The sum and substance of the petition is that the respondents 1 and 2/plaintiffs have filed the main suit seeking a declaration to nullify a registered Settlement Deed dated 01.08.2025 and a Rectification Deed dated 25.08.2025, alongside a consequential permanent injunction. The petitioners contend that a careful reading of the plaint reveals that the plaintiffs have explicitly disputed the first petitioner's title, asserting that he has no right over the suit property and questioning his adoption by late Raja. The petitioners argue that when title is thus fundamentally disputed, the plaintiffs are legally obligated to seek a comprehensive declaration of their own title. By omitting to do so and merely seeking to set aside the deeds, the suit is said to be expressly barred by the proviso to Section 34 of the Specific Relief Act.

3. Furthermore, the petitioners contend that the suit is grossly undervalued. While the plaintiffs claim absolute ownership over 1 Acre and 15 Cents of land, they have artificially valued the declaratory reliefs at Rs. 5,000/-

each and paid a nominal court fee of Rs. 150/- per relief under Section 25(d) of the Tamil Nadu Court Fees and Suits Valuation Act, instead of paying ad valorem court fee on the market value. Lastly, the petitioners urge that the plaint suffers from the non-joinder of necessary parties, as other legal heirs of late Thimmaraya Goundar have not been impleaded, making the suit an exercise in clever drafting to bypass the revenue law and create an illusion of a cause of action.

Case of the Respondents / Plaintiffs 1 & 2

4. Per contra, the respondents 1 and 2/plaintiffs have resisted this application by filing a detailed counter statement. They contend that the application is a frivolous attempt to protract the litigation. According to the plaintiffs, the plaint discloses a clear, real, and subsisting cause of action arising from the execution of the fraudulent settlement and rectification deeds by the defendants over property that does not belong to them. The plaintiffs assert that their title is already firmly anchored and established through a historic, registered partition deed dated 24.03.2000, by which the 'B' schedule property was exclusively allotted to them.

5. The plaintiffs argue that Section 34 of the Specific Relief Act is completely inapplicable since they are not seeking a bare declaration; they have prayed for a substantive consequential relief of permanent injunction to secure

their possession. They maintain that the law does not compel a party to seek a redundant declaration of title when their title is already settled by a registered partition deed and recorded in subsequent revenue registers. On the issue of court fees, the plaintiffs state that since they are suing to declare a document void and are not parties to the impugned instruments, valuation under Section 25(d) of the Tamil Nadu Court Fees and Suits Valuation Act is perfectly legal and correct. They also deny any defect of non-joinder, stating that all necessary parties to the disputed transactions have been brought before the Court.

POINTS FOR DETERMINATION

6. The following points arise for consideration in this application:

I. Whether the plaint in O.S. No. 147 of 2025 is liable to be rejected under Order VII Rule 11(d) of the CPC as being barred by the proviso to Section 34 of the Specific Relief Act?

II. Whether the plaint is liable to be rejected under Order VII Rule 11(b) and (c) of the CPC on account of improper valuation and deficit payment of court fee?

III. Whether the plaint discloses a clear cause of action as required under Order VII Rule 11(a) of the CPC?

EVIDENCE ADDUCED

7. No oral or documentary evidence has been adduced by either party at this interlocutory stage. This Court is confined to an examination of the plaint averments and the statutory provisions of law.

SUBMISSIONS OF THE PARTIES

8. The learned counsel appearing for the petitioners/defendants had filed a written argument and also orally argued with great emphasis that the plaintiffs are attempting to litigate a question of title through the back door. It is their contention that once the first defendant's right to execute a settlement deed is challenged on the ground that his adoption is fraudulent, the root of the dispute becomes the title itself. Relying on the classic principles of civil jurisprudence, the counsel submitted that a suit for cancellation or declaration of a deed as void without a prayer for declaration of title is structurally defective and legally barred when the title is under a cloud.

9. In response, the learned counsel for the respondents/plaintiffs submitted that the power to reject a plaint at the threshold must be exercised with extreme caution. The counsel took this Court through the text of the plaint to show that the plaintiffs are not asking the Court to determine their title afresh; they are simply seeking to clear a cloud created by two newly fabricated documents executed in August 2025. The counsel argued that since the

plaintiffs are already owners by virtue of the registered partition deed of the year 2000, there is no necessity to pay an enormous court fee on market value for a title they already hold.

DISCUSSION AND REASONS FOR DECISION

10. For an orderly determination of this dispute, it is essential to first trace the factual matrix as set out by the plaintiffs in their plaint. The plaintiffs claim that the suit property originally belonged to their patriarch, Thimmaraya Gounder, who purchased a total extent of 4.70 acres in Survey No. 302/2 vide a registered sale deed dated 14.10.1955. Following his demise in 1985, a formal registered partition deed was executed among his legal heirs on 24.03.2000. In that partition, the 'B' schedule property, measuring 1.15 acres, was allegedly allotted exclusively to the plaintiffs, who are the legal heirs of the deceased son, T. Kalyanasundaram. The plaintiffs allege that the first defendant, who is the son of another brother (T. Manoharan), has set up a false claim of adoption through an unmarried uncle, late T. Raja, and had previously filed a suit in O.S. No. 342 of 2003 to validate that adoption, which was ultimately dismissed for default on 07.01.2013. The immediate provocation for the present suit is the execution of a registered Settlement Deed dated 01.08.2025 and a Rectification Deed dated 25.08.2025 by the first defendant in favour of his wife, the second defendant, covering an extent of 64 cents out of the plaintiffs' property.

Analysis on Point No. 1: The Statutory Bar Under Section 34 of the Specific Relief Act

11. The petitioners heavily rely on the argument that the suit is barred by the proviso to Section 34 of the Specific Relief Act because the plaintiffs failed to seek a declaration of title. To appreciate this contention, we must revisit the well-settled legal position regarding Order VII Rule 11 of the CPC. It is a foundational rule of civil procedure that while considering an application for rejection of a plaint, the Court must look only into the allegations contained in the plaint. The defense set up by the defendants in their written statement or affidavit is completely irrelevant at this stage. The test is whether the plaint, when read as a whole and taken at its face value, discloses a clear legal bar or lacks a cause of action.

12. The proviso to Section 34 mandates that no court shall make a declaration where the plaintiff, being able to seek further relief than a mere declaration of right, omits to do so. In the case at hand, the petitioners argue that "further relief" means a declaration of title. However, on a careful reading of the plaint, this Court observes that the plaintiffs have clearly stated that their title was perfectly solidified through the registered partition deed dated 24.03.2000. It is their specific case that they are in possession and that their title is already a matter of record. When a plaintiff relies on an existing, undisputed registered

title deed to protect their property against a third-party encumbrance created by a stranger, they are not legally bound to ask for a declaration of their own title.

13. The cloud over the plaintiffs' title was created recently by the execution of the deeds in August 2025. Therefore, seeking to declare those specific deeds as null and void, coupled with a consequential injunction against alienation, is an appropriate and complete relief in itself. The plaintiffs have not filed a bare declaratory suit; they have expressly sought the consequential relief of permanent injunction to protect their interest. Whether the first defendant was validly adopted or whether he has an independent right over the property are matters of evidence to be ironed out during a full-blown trial. It cannot be said at the threshold that the suit is barred by Section 34. Consequently, the argument under Order VII Rule 11(d) fails.

Analysis on Point No. 2: Valuation and Sufficiency of Court Fee

14. The next ground urged by the petitioners is that the suit has been grossly undervalued and that court fee ought to have been paid on the market value of the property. The plaintiffs have valued the suit under Section 25(d) of the Tamil Nadu Court Fees and Suits Valuation Act, paying a fixed court fee of Rs. 150/- for each of the two declaratory reliefs.

15. We must analyze whether a person who is not a party to a deed, but whose property is affected by it, is bound to value the suit on the market value

of the land. The legal distinction between a suit for cancellation of a deed and a suit for a declaration that a deed is null and void is well recognized by the Hon'ble Madras High Court and the Apex Court. When a person is a party to a document, they must seek its cancellation and pay court fee based on the value mentioned in the document. However, when a third party or a stranger to the document finds that their property has been dealt with by someone else without any right, such a document is estoppel or a void document ab initio as far as the true owner is concerned. In such circumstances, the third party is entitled to seek a mere declaration that the document is null, void, and not binding on them.

16. The plaintiffs herein are not parties to the Settlement Deed dated 01.08.2025 or the Rectification Deed dated 25.08.2025 executed between the first and second defendants. They are outsiders to those instruments. Therefore, they are perfectly justified in seeking a declaration that these deeds are void and not binding upon them, and the valuation under the residuary provision of Section 25(d) of the Tamil Nadu Court Fees and Suits Valuation Act is legally sustainable at this stage. The contention that the plaint must be rejected for undervaluation or short payment of court fee under Order VII Rule 11(b) and (c) cannot be accepted.

Analysis on Point No. 3: Disclosure of Cause of Action

17. The petitioners suggest that the plaint is a product of clever drafting designed to manufacture an illusion of a cause of action. It is true that the courts must nip in the bud any litigation that is manifestly vexatious or groundless by exercising powers under Order VII Rule 11. However, a reading of the present plaint does not indicate a manufactured cause of action.

18. The plaintiffs have set out a clear chronology: the purchase by their grandfather in 1955, the registered partition in 2000, the allotment of the 'B' schedule, the dismissal of the first defendant's earlier adoption suit in 2013, and finally, the creation of the settlement and rectification deeds in August 2025. These averments disclose a triable dispute. The phrase cause of action implies a bundle of essential facts which the plaintiff must prove to succeed. Here, the bundle of facts consists of the plaintiffs' prior title via partition and the subsequent alleged trespass into their legal rights by the defendants through the creation of registered documents. Whether these facts are true or false is a matter for trial. At this stage, this Court is satisfied that the plaint discloses a clear cause of action.

19. Regarding the plea of non-joinder of other legal heirs, it is a settled principle of procedural law that non-joinder of parties is not a ground for rejection of a plaint under Order VII Rule 11 of the CPC. Order I Rule 9 of the

CPC explicitly mandates that no suit shall be defeated by reason of the misjoinder or non-joinder of parties, and this issue can be framed and decided during the main trial.

20. Therefore, on a comprehensive examination of the plaint and applying the statutory yardsticks of Order VII Rule 11 of the CPC, this Court is of the considered view that the petitioners have not made out any ground to reject the plaint at this preliminary stage. The application is devoid of merits and deserves to be dismissed.

RESULT

21. In the result, this interlocutory application is hereby **dismissed**. No order as to any costs.

ESHWAR VISWANATHAN
DISTRICT MUNSIF, VANIYAMBADI
Digitally signed by ESHWAR VISWANATHAN
DN: cn=ESHWAR VISWANATHAN, ou=TIRUPPATHUR, o=TAMIL NADU STATE JUDICIAL SERVICE, st=Tamil Nadu, c=IN
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Directly typed by me in my official laptop, corrected and pronounced by me in the Open Court, this the 03rd day of June 2026.

DISTRICT MUNSIF,
VANIYAMBADI.

APPENDIX

I. Witnesses Examined on behalf of petitioner : Nil
II. Documents Marked On behalf of the Petitioner:Nil
III. Witnesses Examined on behalf of respondents : Nil
IV. Documents Marked On behalf of the respondents: Nil

ESHWAR VISWANATHAN
DISTRICT MUNSIF, VANIYAMBADI
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District Munsif,
Vaniyambadi.