

**IN THE COURT OF THE I ADDITIONAL DISTRICT AND
SESSIONS JUDGE, VELLORE, VELLORE DISTRICT.**

PRESENT: P.V.Sandilyan,
Additional District Judge (FTC),
Vellore.

Dated this the 6th day of November 2025, Thursday

I.A.No.1 of 2025

IN

O.S. No.28/2025

CNR.No.TNVL01-000847-2025

1. R.Srihari (Died)
2. Smt.Shantha Srihari
3. Mr.S.Balakrishnan
4. Smt.Anitha
5. S.Preetha
6. Geetha

..... Petitioners/Defendants 2 to 6

-Vs-

1. Mr.M.Selvam (Died)
2. Smt.V.Vasanth
3. Mr.S.Nandakumar
4. Ms.S.Vanitha
5. Mr.S.Sedhuraman

... Respondents/Plaintiffs 2 to 5

This petition is came up before me for final hearing on 23.09.2025 in the presence of Thiru. D.G.Prabhakaran, counsel for the petitioners/Defendants 2 to 6 , and Thiru.R.Baharathi Dashan, Counsel for the respondents/Plaintiffs 2 to 5, upon hearing the arguments of both sides and

upon perusing the entire case records and having stood over for consideration, till this date this court delivered the following:-

ORDER

This petition has filed by the petitioner under Order 7 Rule 11 CPC to reject the plaint.

2. The brief petition averments of the petition :

2.1. The 3rd Defendant in the above suit and 3rd petitioner in this application. I further state I am, filing this affidavit on behalf of myself and also on behalf other petitioners/defendants 2,4 to 6 I have no any adverse interest over the rights of the other petitioners 2,4 to 6.

2.2 The 3rd Petitioner state that, the above said deceased M.Selvam filed a suit for the reliefs of direction the deceased Late.Sri.Srihari to execute the sale deed and register the same in respect of the suit schedule mentioned properties for sum of Rs.7,08,750/- on are before a date to be fixed by this Hon'ble Court, as a prayer Number (a). In prayer Number(b) in case the deceased Late.Sri.Srihari fails to register the sale deed within the time fixed by this Hon'ble Court, direct this Hon'ble Court to execute the sale deed to the plaintiffs for Rs.7,08,750/- in respect of the suit schedule mentioned properties. In prayer Number (c), to deliver possession of the suit schedule mentioned properties to the Late.Mr.M.Selvam within a certain period to be

fixed by this Hon'ble Court failing which to deliver possession of suit schedule mentioned properties through the court process in prayer Number (d) alternatively to order the repayment of the advance amount to the deceased Mr.M.Selvam and for other reliefs.

2.3 The 3rd Petitioner state that, the allegations made in the plaint as that on 01.08.2007, in the morning hours Late.Sri.Srihari entered into an oral agreement with the deceased Mr.M.Selvam to sell the suit properties for a sum of Rs.7,08,750/-, the deceased Late.M.Selvam also agreed to purchase the suit schedule mentioned properties for Rs.7,08,750/- and paid the entire sale agreement consideration of Rs.7,08,750/- on the morning of 01.08.2007 to the Late.Sri.Srihari, the said Late.Sri.Srihari in the afternoon of 01.08.2007 agreed to execute the sale deed in favour of the Late.M.Selvam and registered the sale deed at the expenses of the plaintiff, the Late.M.Selvam also in the afternoon of 01.08.2007 prepared the sale deed filed along with the plaint in respect of the plaint suit schedule mentioned properties and requested Late.Sri.Srihari to register the sale deed at the expenses of Late.M.Selvam, the sale deed was duly executed and signed by Late.Sri.Srihari an all pages and was also attested by to witnesses and scribe also signed the document, and at the time of presenting the sale deed, filed along with plaint, before the Sub-registrar office at Gudiyatham, the said Late.Sri.Srihari did not come to the

office of 01.08.2007, when called by the Sub-registrar office at Gudiyatham and the Late.Sri.Srihari sent word from polytechnic office, Gudiyatham, that he was not doing well and promised to registered the sale deed at an earlier date, are all absolutely false, invented and created only for the purpose of filing of this vexatious suit. There is no Ito of truth in the allegations leveled by the deceased M.Selvam. In fact the said Late.M.Selvam being an absolute litigant, tried to grab the suit schedule mentioned properties from Late.Sri.Srihari, I further state that as per the full knowledge of me and my family members, there was no necessity to alienate either the suit properties from or any other properties. Taking advantage of the age of Late.Sri.Srihari, the deceased Mr.M.Selvam attempted to grab the suit properties from the Late.Sri.Srihari.

2.4 The 3rd Petitioner state that, the allegation in para No.3 of the plaint as that on 01.08.2007 in the afternoon the alleged sale deed dated 01.08.2007 presented for registration in the office of the Sub-registrar, Gudiyatham called the said Late.Sri.Srihari and the said Late.Sri.Srihari did not come to the office, are all absolutely false. The allegation as that the sale deed dated 01.08.2007 was presented for registration and since the said Late.Sri.Srihari did not appeared before the Sub-registrar, Gudiyatham, the Sub-registrar could have recorded the same as per section 71 of Registration

Act. After complaining Section 71 of Registration Act, the said Late.Mr.M.Selvam could have approached the office of the District Registrar, Vellore as per section 72 of Registration Act⁶ and as per section 76 of Registration Act if the District Registrar passed any orders as per section 76 of Registration Act, the then plaintiff Late.Mr.M.Selvam could have filed a suit as per Section 77 of Registration Act. Hence, the then plaintiff Late.M.Selvam without exhausting the mandatory remedies as per section 71,72,76 and 77 for Registration Act, filed this suit is absolutely amounts to this suit filed without cause of action. Hence, on this ground alone, this Hon'ble Court ought to have rejected the plaint at the time of filing itself.

2.5 The 3rd Petitioner state that, the relief in Prayer (a) in the plaint as that to direct the Late.Sri.Srihari to execute the sale deed is also vague and not acceptable. The suit relief is absolutely amounts to suit for apecific performances, which is against Section 77 of Registration Act and contrary to Law. The then plaintiff Late.Mr.M.Selvam have not approached this Hon'ble Court with clear hands.

2.6 The 3rd petitioner state that, the deceased M.Selvam along with his parter Mr.D.Loganathan created a sale agreement by stating that Late.Sri.Srihari and myself executed the same on 15.02.2007 in respect of some other properties. In the said sale agreement deed dated 15.02.2007 in

Sevoor village Survey No.243 extent 57 1/2 cents have been accepted to alienate, has been incorporated the same survey No.243 in Sevoor village extent 57 1/2 cents in this suit alleged sale deed. It itself proves that the Late.Mr.M.Selvam being a highly litigant person, maximum attempted to grab this suit properties and some other properties from Late.Sri.Srihari.

2.7 The 3rd Petitioner state that, I am legally entitle to file this application to reject the4 plaint even at this stage. Further the application filed Under Order 7 Rule 11 by my mother Smt.Shantha Srihari has been returned by the Hon'ble Court for various reasons. Hence, I am approaching this Hon'ble Court with this fresh application. Therefore it is prayed that this Hon'ble Court may be pleased to reject the plaint in O.S.28 of 2025 on the file of this Hon'ble Court with the costs or otherwise myself and other petitioners/defendants will be put in to great loss and hardship.

3. The brief averments of the Counter is as follows :

3.1 The document states that the petition under Order VII Rule 11 CPC filed by the petitioner/defendants is unsustainable both legally and factually and must be dismissed at the outset.

3.2 It further records that Selvam field a suit seeking direction to the deceased Srihari property worth Rs.7,08,750/-. The document states that the plaintiff sought c ourt directions for execution of a sale deed for Rs.7,08,750/-

relating to the suit property. If late Srihari failed to register the deed, the court was requested to executed it or alternatively order possession of the property to Mr.M.Selvam, or repayment of the advance amount. It records that on 01.08.2007, late Srihari and late M.Selvam had an oral agreement for sale of the property for Rs.7,08,750/-, and selvam paid the full consideration on the same day. Srihari agreed to execute the sale deed, and selvam prepared the deed and requested its registration at Srihari's expense. The documents explains that although a sale deed was allegedly executed and signed by late Srihari in favor of late M.Selavam on 01.08.2007, Srihari did not appear at the sub-registrar's office for registration. It argues that claims about Srihari being unwell and promising later registration are false and fabricated for filing a vexatious suit. It alleges that late M.Selvam, being litigious, tried to unlawfully grab the suit property from Srihari, who and his family had no reason to sell or alienate the property. It further states that Selvam exploited Srihari's age to attempt to seize the property, and denies the truth of the plaintiff's allegations regarding execution and registration of the sale deed. The document argues that the claim regarding the sale deed dated 01.08.2007 is false since late Sri.Srihari never appeared before the sub-registrar for registration. It states that under Section 71-77 of the Registration Act, Late.M.Selvam should have pursued proper remedies through the sub-

registrar and District Registrar before filing a suit. As he failed to exhaust these remedies, the suit is without cause of action and should have been rejected at filing. It further notes that the relief sought is vague, amounts to a suit for specific performance, and is contrary to section 77 of the Registration Act, showing that the plaintiff approached the court without clean hands. The document states that a sale agreement dated 15.02.2007 for other properties in sevoor village survey No.243 was wrongly incorporated into the disputed sale deed, showing that late.M.Selvam, being litigious, tried to grab the suit property and other properties from late.Sri.Srihari. It mentions that Srihari's son, through his mother Smt.Shantha Srihari, had already filed an Order 7 Rule 11 CPC petition which the court returned. It argues that the fresh application filed does not fall under Order 7 Rule 11 CPC, and the averments and allegations are unacceptable at this stage, so the application must be dismissed.

3.3 The respondent argues that the petitioner's application under Order 7 Rule 11 CPC, filed after 15 years, is an abuse of legal process and a violation of fundamental rights. The respondent points out that the original suit (O.S.No.41 of 2010 was already proceeding, with both parties having filed written statements, necessary issues framed, and trial commenced, including filing of proof affidavits. The respondent further states that despite

the case being ready for trial, the petitioner deliberately delayed proceedings and even filed Transfer Petition No.70/2024 to move the case to the District Judge, Vellore, along with O.S. 14 of 2013. The transfer was allowed, but the petitioner/defendant again filed the present application only to prolong proceedings and prevent the case from reaching its conclusion.

3.4 The respondent submits that the petitioner has not provided any reason for the 15-year delay in filing the Order 7 Rule 11 CPC application. They argue that the petitioner remained silent all along and suddenly filed the application only to misuse the law, prolong proceedings, and harass the respondent without any merit.

3.5 This respondent further states that once issues have already been framed, rejection of the plaint cannot arise under Order 14 Rule 1 CPC.

3.6 They emphasize that if the plaint is barred by limitation or involves mixed questions of law and fact, such matters should be resolved during trial, not through this belated application. The respondent states that the petitioner's application for rejection of the plaint is illegal and an abuse of process since the respondent/plaintiff has already filed proof affidavit before the Subordinate Judge at Gudiyatham, and continues to be in possession and enjoyment of the scheduled property.

3.7 They argue that the defendant failed to perform his contractual obligations, and that the allegations in the affidavit should be decided during trial with proper evidence, not through this application.

3.8 The respondent further submits that as per the order in transfer petition No.70/2024 before the Principal District Judge, Vellore, the trial proceedings should continue immediately. However, the petitioner/defendant is attempting to delay and dilute the case to avoid conclusion. Therefore, the respondent prays for dismissal of the application with costs.

4. There is no oral and documentary evidence on both sides.

5. The point for consideration in this petition is, ***whether this petition is to be allowed or not?***

6. **Point:-**

Both side arguments heard. Records perused.

6.1 The learned counsel for the petitioner contented that the deceased plaintiff being an absolute litigant in order to grab the properties of 1st deceased defendant Sri Hari without iota of truth, filed the suit for Specific Performance. The petitioner further contented that when the deceased 1st defendant failed to appear before the Sub-registrar Gudiyatham on 01.08.2007 then the deceased 1st respondent should approach the Office of District Registrar Vellore as per Section 72 of the Registration Act and on the basis of

order of District Registrar Vellore as per 76 of Registration Act, if aggrieved then ought to file a suit as per Section 77 of Registration Act, without invoking Section 71, 72, 76 and 77 of the Act filed the suit, hence there is no cause of action for the 1st respondent to file the suit and prayed to reject the plaint.

6.2 The learned counsel for the respondents 2 to 5 contented that after the lapse of 15 years belatedly filed this petition to prolong these proceedings without reach the end of the case, once as per order 14 Rule 1 the issues framed by this court then the rejection of plaint cannot be arose and the allegations raised by the petitioner without invoking the above said Registration Act can be decided during the course of trial and it is not a ground for a rejection of plaint and prayed to dismiss the petition.

6.3 The suit was filed for the relief of Specific Performance of Contract and alternative relief against the petitioners based on the oral agreement with the 1st deceased respondent with 1st deceased petitioner on 01.08.2007. It is the case of the plaintiff that on 01.08.2007 oral agreement with the plaintiff was entered by the 1st petitioner for a sale consideration of Rs.7,08,750/- and the plaintiff paid the entire sale consideration on 01.08.2007 morning itself. The defendant agreed to execute sale deed in favor of the plaintiff and register the sale deed on 01.08.2007 and executed by

the defendant on all pages and it was attested and scribed by the witness also. But, the defendant failed to appear before the Sub-registrar Office on 01.08.2007 when Sub-registrar Gudiyatham called the defendant. It is the case of the plaintiff from then onwards on repeated request, demand made by the plaintiff the defendant evaded the process endlessly and the plaintiff filed the suit for Specific Performance with an alternative relief of refund of sale consideration amount.

6.4 In this regard this petitioner filed the written statement on 17.07.2023 when they were impleaded as legal representative of the deceased 1st defendant. Even on the perusal of written statement the plea raised by the petitioner that after invoking Section 71, 72, 76 and 77 of the Registration Act the plaintiff should file the suit, failing which there will be no cause of action, is found missing. In the rejection of plaint petition only the petitioners raised the plea that there is no cause of action arose in the suit for non invoking Section 71, 72, 76 and 77 of the Registration Act. It is a settled position of law that while deciding Order 7 Rule 11 CPC the court has to examine the averments made in the plaint and the pleas taken by the defendants in the written statement or in the rejection of plaint petition would be irrelevant. On perusal of records the issues were framed by my predecessor on 11.07.2011. The petitioners who were impleaded on 27.08.2015 as legal representatives of

the 1st defendant filed written statement on their behalf on 17.07.2023 and additional written statement on 05.08.2023.

6.5 In this regard, the Hon'ble Supreme Court in **Alpana Gupta Vs APG Towers (P) Ltd.**, 2019 (15) SCC 46 held that

Order 7 Rule 11 and Order 8 Rule 1- Relative scope – please that ought to be raised in written statement cannot be raised in application under Order 7 Rule 11: on facts, respondent/defendant permitted to raise please in written statement, if written statement not already filed. Once such pleas raised, trial court would frame appropriate issues and decide matters in-accordance with law.

6.6 On perusal of the plaint averments it reveals the cause of action for the plaint arose on the date of entering into alleged oral agreement on 01.08.2007, payment of sale consideration on the same date, failure of the defendant to execute the sale deed before the Sub-registrar Gudiyatham, the plaintiffs repeated request to the defendant for the defendant to perform his part of contract. Prima facie this court is of the opinion based on the plaint averments the cause of action for the plaintiff to file the suit for the Specific Performance or with alternative reliefs exists.

6.7 The first and foremost contention of the petitioner is that the plaintiff without exhausting the available remedy under the Registration Act filed the suit thereby no cause of action arose such a disputed question of fact has to be adjudicated on the basis of evidence led by the respective parties in

support of their contention and cannot be decided at the stage of consideration of application under Order 7 Rule 11 of CPC. The plaint can be rejected under Order 7 Rule 11 if conditions enumerated in the said provision are fulfilled. Further, the power under Order 7 Rule 11 CPC can be exercised by the court at any stage of the suit. On perusal of plaint it found for the suit the cause of action is available, the averments in the rejection of plaint petition cannot be taken into consideration for rejection of plaint under Order 7 Rule 11 for the reason it lacks of merits. In this suit issues were framed in the year of 2011 then this court is required to proceed with the trial rather than to entertain rejection of plaint Order 7 Rule 11 petition by rejecting the plaint. The allegation raised by the petitioner non-invoking of Registration Act renders no cause of action for the plaintiff will be decided during the course of trial, after the parties led evidence in support of their case. On perusal of records it reveals that the suit is of the year 2010, on 2011 itself issues were framed by this court, at this belated stage, the petitioner raised the plea for the first time in this petition without raising it in the written statement, seems to be dragging the suit endlessly and it is just and necessary to impose cost on the petitioner.

In the result, this petition is dismissed with costs.

Dictated to Steno-typist directly, typed by her through computer, corrected and pronounced by me in open court, this the 06th day of November 2025.

**Additional District
Judge(FTC), Vellore.**