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CRP.No.347 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**Reserved on :
18.8.2026****Delivered on :
20.8.2026**

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH**Civil Revision Petition No.347 of 2023
& CMP.No.2896 of 2023**

1. M Arumugham
S/o. late. A.Murugesan,
No.245, Arcot Road,
Kodabakkam,
Chennai-600024.
2. Rajeswari
D/o. late. A.Murugesan,
No.245, Arcot Road,
Kodabakkam,
Chennai-600024.
3. M.Mohana Kumaraswamy
S/o. late. A.Murugesan,
No.245, Arcot Road,
Kodabakkam,
Chennai-600024.
4. Jayalakshmi
No.245, Arcot Road,
Kodabakkam,
Chennai-600024.



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5. V.Lakshmi
No.245, Arcot Road,
Kodabakkam,
Chennai-600024.
6. V.Krishnaswamy
No.245, Arcot Road,
Kodabakkam,
Chennai-600024.
7. V.Sundar
No.245, Arcot Road,
Kodabakkam,
Chennai-600024.
8. N.Varshini
No.245, Arcot Road,
Kodabakkam,
Chennai-600024.
9. Banumathi
No.245, Arcot Road,
Kodabakkam,
Chennai-600024.

...Petitioners

Vs

1. P.Ashok
S/o. G.Parthasarathy,
New No.32, Old No.18,
South Sivan Kovil Street,
Kodambakkam,
Chennai-600 024.
2. The Tahsildar, Egmore Taluk,
Spurtank Road, Chennai-600031.
3. The Commissioner,
Greater Chennai Corporation,
Rippon Building, Chennai-600002.



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4. The Assistant Revenue Officer,
Zone IX, Greater Chennai
Corporation, No.4,
4th Cross Street,
Lake View Road,
Chennai-600034.

...Respondents

PETITION under Article 227 of The Constitution of India against the order dated 09.12.2022 in I.A.No.1 of 2022 in O.S.No. 558 of 2022 passed by the 8th Assistant Judge, City Civil Court at Chennai.

For Petitioners:	Mr.S.Sivaraman
For Respondents:	Mr.C.S.Kiran for R1
	Mrs.S.Yogalakshmi, AGP for R2
	Ms.K.Aswini Devi,
	Standing Counsel for R3 & R4

ORDER

This civil revision petition has been filed under Article 227 of The Constitution of India against the order dated 09.12.2022 in I.A.No.1 of 2022 in O.S.No.558 of 2022 passed by the 8th Assistant Judge, City Civil Court at Chennai (for short, the Court below) wherein the application filed by the petitioners under Order VII Rule 11 of the Civil Procedure Code (CPC) to reject the plaint came to be dismissed.



2. Heard the learned counsel for the petitioners and the respective learned counsel appearing for the respondents.

3. The first respondent, who is the plaintiff, filed the said suit seeking

(i) for the relief of declaration to declare the judgment and decree dated 06.1.1997 passed in O.S.No.6935 of 1996 on the file of the Second Assistant Judge, City Civil Court, Chennai and the property mentioned in the sale deed of one Mr.A.Murugesan bearing Doc.No.2198 of 2012 on the file of the Sub-Registrar, Kodambakkam dated 02.7.2012 did not pertain to the suit property;

(ii) for a further declaration that the mutation of the property tax assessment in respect of the suit property in favour of defendants 1 to 9 by the 12th defendant was illegal;

(iii) for a consequential permanent injunction prohibiting the 10th defendant from granting patta in respect of the suit property to defendants 1 to 9; and

(iv) for a consequential permanent injunction restraining defendants 1 to 9 from interfering with his peaceful possession and enjoyment of the suit property.



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4. In the said suit, the petitioners herein, who are defendants 1 to 9, filed I.A.No.1 of 2022 under Order VII Rule 11 of the CPC seeking to reject the plaint on the ground that the suit was barred by the principles of res judicata.

5. The said application was filed by further stating

(a) that the first respondent/plaintiff had already filed O.S.No. 1256 of 2013 on the file of the 17th Assistant Judge, City Civil Court, Chennai seeking

(i) for the relief of permanent injunction restraining the defendants therein namely the said Mr.A.Murugesan and three others from interfering with his peaceful possession and enjoyment of the suit property except by due process of law; and

(ii) for a mandatory injunction against the defendants therein to remove the obstruction caused by the construction material dumped in front of the suit property, which was under the occupation of the first respondent/plaintiff as a tenant;

(b) that the suit in O.S.No.1256 of 2013 came to be dismissed on 21.3.2014 after contest and the same was also confirmed in appeal in A.S.No.88 of 2015 by the 19th Additional Judge, City Civil



Court, Chennai by judgment and decree dated 29.3.2016; and

(c) that the very same issue has now been re-agitated by the first respondent/plaintiff in the present suit as against the legal representatives of the deceased – the said Mr.A.Murugesan.

6. In the said application, the first respondent/plaintiff filed a counter and took a stand that the present suit has been filed for a different cause of action, that he came to know that the title was claimed by defendants 1 to 9 based on a decree passed in a suit for specific performance pertaining to a different property, that by taking advantage of that decree, an attempt was being made to dispossess the plaintiff, who was in the settled possession of the suit property for well over 25 years and that there were disputed questions of fact, which require consideration after conducting the trial. Accordingly, the first respondent/plaintiff sought for dismissal of the said application.

7. The Court below, on considering the contentions put forth by the learned counsel on either side, by the impugned order, came to the conclusion that issue of res judicata could be decided only



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after conducting a trial and that it would not be a ground, based on which, the plaint could be rejected. Aggrieved by that, the above civil revision petition has been filed before this Court.

8. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned order.

9. The subject property originally belonged to one Mr.P. Thanikachalam, who entered into an agreement of sale dated 11.8.1989 with the said Mr.A.Murugesan. It is relevant to point out that the said Mr.A.Murugesan originally filed C.S.No.1178 of 1990 before this Court seeking for the relief of specific performance and later, it was transferred to the City Civil Court, renumbered as O.S.No.6935 of 1996 on the file of the Second Assistant Judge, City Civil Court, Chennai and decreed by judgment and decree dated 06.1.1997. This decree was put to execution by filing E.P.Nos.2088 & 2090 of 1997. During the pendency of the said execution petitions, the said Mr.P.Thanikachalam died and therefore, the said execution petitions were closed.



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10. Subsequently, E.P.No.1584 of 2004 was filed on the file of the 10th Assistant Judge, City Civil Court, Chennai against the legal heirs of the said Mr.P.Thanikachalam. After prolonged litigation, an order was passed in that execution petition for executing the sale deed. However, since the legal representatives of the said Mr.P. Thanikachalam were not coming forward to execute the sale deed, the 10th Assistant Judge, City Civil Court, Chennai executed the sale deed on 02.7.2012 in favour of the said Mr.A.Murugesan. This sale deed was registered as Doc.No.2198 of 2012 on the file of the Sub-Registrar, Kodambakkam.

11. Later, the first respondent/plaintiff filed O.S.No.1256 of 2013 on the file of the 17th Assistant Judge, City Civil Court, Chennai against the said Mr.A.Murugesan and the legal heirs of the said Mr.P.Thanikachalam.

12. In O.S.No.1256 of 2013, the first respondent/plaintiff took a stand that he was a tenant in the suit property under the said Mr.P.Thanikachalam, that an attempt was made to evict him from the suit property by some unknown persons and that therefore, the



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suit came to be filed seeking

(i) for the relief of permanent injunction restraining the defendants therein from interfering with his peaceful possession and enjoyment of the suit property except by due process of law; and

(ii) for a mandatory injunction against defendants therein to remove the obstruction caused by the construction material dumped in front of the suit property.

13. It must be borne in mind that even when the earlier suit in O.S.No.1256 of 2013 was filed on the file of the 17th Assistant Judge, City Civil Court, Chennai, the first respondent/plaintiff herein was aware of the fact that the said Mr.A.Murugesan had purchased the property and that in spite of the same, the first respondent did not question the decree dated 06.1.1997 passed in O.S.No.6935 of 1996 on the file of the Second Assistant Judge, City Civil Court, Chennai. It is seen that O.S.No.1256 of 2013 was contested by the said Mr.A.Murugesan and it was dismissed by judgment and decree dated 21.3.2014, which was confirmed in appeal in A.S.No.88 of 2015 on the file of the 19th Additional Judge, City Civil Court, Chennai by judgment and decree dated 29.3.2016. Thus, the



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judgment and decree passed in O.S.No.1256 of 2013 dated 21.3.2014 became final and would be binding on the first respondent/plaintiff.

14. The first respondent/plaintiff, by completely disregarding the earlier decree, filed the present suit in O.S.No.558 of 2022 against the children and grandchildren of the deceased – the said Mr.A.Murugesan by showing them as defendants 1 to 9. He has also added the Tahsildar of Egmore Taluk, the Commissioner of the Greater Chennai Corporation and the Assistant Revenue Officer, Zone IX of the Greater Chennai Corporation as defendants 10 to 12 and creates a cause of action as if the defendants therein are attempting to forcibly evict him and accordingly, he once again seeks for the relief of permanent injunction restraining defendants 1 to 9 from interfering with his peaceful possession and enjoyment of the suit property, which was earlier refused, by ingeniously adding three more prayers seeking

(i) to declare that the decree passed in O.S.No.6935 of 1996 on the file of the Second Assistant Judge, City Civil Court, Chennai and the property mentioned in the sale deed bearing doc.No.2198 of



2012 on the file of the Sub-Registrar, Kodambakkam dated 02.7.2012 did not pertain to the suit property;

(ii) to declare the mutation of the property tax assessment in respect of the suit property in favour of defendants 1 to 9 by the 12th defendant as null and void; and

(iii) to grant permanent injunction prohibiting the 10th defendant from granting patta in respect of the suit property to defendants 1 to 9.

15. As stated supra, even when O.S.No.1256 of 2013 was filed on the file of the 17th Assistant Judge, City Civil Court, Chennai, the first respondent/plaintiff was aware of the fact that the sale deed was executed in favour of the said Mr.A.Murugesan and he was apprehending that he would be forcibly evicted by the defendants therein.

16. In the guise of adding the official defendants in the present suit along with the legal heirs of the deceased – the said Mr.A.Murugesan, the first respondent/plaintiff has attempted to create an illusory cause of action and get over the judgment and



decree passed against him in O.S.No.6935 of 1996 dated 06.1.1997.

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17. It was under these circumstances, the petitioners filed the application under Order VII Rule 11 of the CPC seeking to reject the plaint in the present suit on the ground that it was completely barred by the principles of res judicata.

18. The Court below has mechanically relied upon the judgment of the Hon'ble Apex Court in ***Srihari Hanumandas Totala Vs. Hemant Vithal Kamat [reported in 2021 (9) SCC 99]*** and rendered a finding that the plaint in the present suit could never be rejected on the ground of res judicata and that the issue could only be determined after trial.

19. In the said judgment of the Hon'ble Apex Court that was relied upon by the Court below, the plaintiff therein had initially filed a suit in O.S.No.103 of 2007 and when that suit was pending, he filed the subsequent suit in O.S.No.138 of 2008. The Hon'ble Apex Court held that the plaint was rejected by taking into account the defence that was raised by the defendants and that therefore, the



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same was not sustainable. Considering the facts of that case, the Hon'ble Apex Court further held that both the suits were pending and that the issue of res judicata could be decided only after trial and accordingly, the order passed by the Trial Court as confirmed by the High Court dismissing the application under Order VII Rule 11 of the CPC was affirmed by the Hon'ble Apex Court.

20. The said judgment of the Hon'ble Apex Court does not impose a complete bar to decide the issue of res judicata while dealing with an application filed under Order VII Rule 11 of the CPC.

21. Order VII Rule 11 of the CPC specifically provides for rejection of the plaint when the suit is barred by law. One of the bars that is provided by law is the principles of res judicata. If a plain reading of the plaint along with the documents filed, on the face of it, establishes that the suit is barred by the principles of res judicata, the Court can certainly reject the plaint on that ground. In such a case, it is not necessary for the Court to go through a full-fledged trial.



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22. In the case in hand, when the earlier suit namely O.S.No. 1256 of 2013 on the file of the 17th Assistant Judge, City Civil Court, Chennai was filed by the first respondent herein, the cause of action was traced by virtue of the sale deed that was executed in favour of the deceased - the said Mr.A.Murugesan, pursuant to which, it was alleged that an attempt was made to interfere with his peaceful possession and enjoyment of the suit property. While filing that suit, there was no doubt in the mind of the first respondent/plaintiff that the property in question was purchased by the first defendant therein namely the said Mr.A.Murugesan, who had filed the suit in O.S.No.6935 of 1996 on the file of the Second Assistant Judge, City Civil Court, Chennai seeking for specific performance of the sale agreement dated 11.8.1989.

23. After having suffered a decree, which was confirmed in appeal, the first respondent/plaintiff cannot be allowed to file a subsequent suit by pouring the old wine in the new bottle and draft an ingenious plaint in order to give an impression as if a subsequent cause of action has arisen enabling filing of the fresh suit. The present suit in O.S.No.558 of 2022 on the file of the 8th Assistant



Judge, City Civil Court, Chennai is nothing short of a subterfuge.

Further, the present suit, on the face of it, is barred by the principles of res judicata when the averments are considered along with documents that have been filed along with the plaint.

24. The present suit is also nothing but a gross abuse of process of law and if a suit of this nature is allowed to exist and the parties are asked to undergo trial, there will be no end to the litigations since it cannot be ruled out that even after losing in this attempt, the first respondent/plaintiff herein will file yet another suit by ingenious drafting and seek for the same protection. The Courts should not spare litigants like the first respondent/plaintiff, who think that Courts are like playgrounds where they can come and play as and when they want by filing frivolous suits and taking advantage of the system to illegally prevent persons, who are legally entitled to enjoy the property. It must be borne in mind that the sale deed was executed in favour of the said Mr.A.Murugesan on 02.7.2012 and for the past 14 years, the first respondent/plaintiff has managed to defeat the rights of the true owners from enjoying the property.



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25. The upshot of the above discussions leads to the only conclusion that the fair and decretal order dated 09.12.2022 passed by the Court below is perverse and is liable to be set aside by this Court in exercise of its discretion under Article 227 of The Constitution of India.

26. Accordingly, the above civil revision petition is allowed and the impugned order dated 09.12.2022 passed in I.A.No.1 of 2022 in O.S.No.558 of 2022 passed by the 8th Assistant Judge, City Civil Court at Chennai is set aside. I.A.No.1 of 2022 in O.S.No.558 of 2022 passed by the 8th Assistant Judge, City Civil Court at Chennai is allowed. The plaint in O.S.No.558 of 2022 on the file of the 8th Assistant Judge, City Civil Court at Chennai stands rejected. No costs. Consequently, the connected CMP is closed.

20-08-2026

Index: Yes
Speaking order
Neutral Citation: Yes

To
The Registrar, City Civil Court,
Chennai.



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N.ANAND VENKATESH,J

RS

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