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C.R.P.No.802 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.04.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.No.802 of 2025
and CMP.No.4688 of 2025

K.S.Yogalaxmii

... Petitioner

Vs.

1.B.Sujatha
V.Indumathi (died)

2.The Sub Registrar
Sub Registrar Office
Tiruttani
Thiruvallur District.

3.S.Jayapradha

4.E.Hema

... Respondents

[Cause title accepted vide Court order dated 10.02.2025
made in CMP.No.2570/2025 in CRP.SR.No.1698/2025]

Prayer: Civil Revision Petition filed under Section 227 of Constitution of India praying to set aside the fair order dated 28.11.2024 made in I.A.No.7 of 2024 in O.S.No.7 of 2019 on the file of the learned District Munsif Court, Tirutani, by allowing this civil revision petition.

For Petitioner : Mr.N.Manoharan



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For Respondents : Mr.N.Muthuvel
Government Advocate for R2
Mr.A.K.Raghavulu for R1, R3 & R4

ORDER

The revision petitioner herein is the first defendant in the suit O.S.No.7/2019 on the file of District Munsif Court, Tirutani, seeking to challenge the dismissal of application in I.A.No.7 of 2024 filed by her to reject the plaint.

2.The facts as set out in the affidavit filed in support of this revision are briefly stated as below :

- a. Item Nos.1 & 2 of the 'A' schedule property belonged to one Omini Srinivasalu Chetty, as also the Item No.1 of 'B' schedule property. His wife is Ambiammal and his daughters are Sujatha and Indumathi. He executed a registered Will dated 01.02.1984, conferring life interest on her daughters, who are the plaintiffs in the suit, and after the lifetime of his daughters, the properties would devolve on the two minors born to the second plaintiff and also to the children to be born to the first plaintiff.
- b. The said Omini Srinivasalu Chetty died on 24.08.2006. His wife



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Ambiammal followed him the next day i.e., on 25.08.2006.

Therefore, the Will came into force.

- c. The plaintiffs would plead that they are the absolute owners of the suit properties and when their title to the property was disturbed by the first defendant on 10.12.2018, they filed a suit in O.S.No.7 of 2019 on the file of District Munsif Court, Tirutani, seeking an injunction restraining the first defendant (the revision petitioner herein) from interfering with their peaceful possession and enjoyment of the suit schedule properties.
- d. The revision petitioner /first defendant had filed a written statement *inter alia* contending that :
 - i. The plaintiffs herein and their mother Ambiammal have jointly sold Item No.2 of 'A' schedule property to her by a registered sale deed dated 01.10.2014.
 - ii. Her mother-in-law Prabavathi by virtue of a settlement deed dated 05.03.1968, owned Item No.3 in 'A' schedule property, which was later sold to five persons in the year 2001.
 - iii. The plaintiffs by themselves and represented by their Power Agent namely Eswara Rao, who is none else than the husband



of the second plaintiff, has created the following sale deeds in favour of the first defendant.

<i>Date & Document</i>	<i>Name of the Vendor</i>	<i>Name of the Purchaser</i>	<i>Survey No. & Extent</i>
01.10.2014 Doc.No.4960/2014	V.Indhumathi POA V.R.EswaraRao	K. S.Yogalaxmii	123/155 = 2464 sq.ft.
16.03.2015 Doc.No.1191/2015	Jayapradha, E.Hema through POA V.R.EswaraRao	K. S.Yogalaxmii	123/155 = 3097 sq.ft.
06.11.2015 Doc.No.4718/2015	Sujatha, Jayaprada, Hema, Indumathi	K. S.Yogalaxmii	123/155 = 3966 sq.ft.

iv. The plaintiffs themselves have conveyed the suit properties in S.No.123/155A to the first defendant, who in turn had executed it in favour of her husband Santhosh Kumar on 12.03.2015 vide Doc.No.1145/2015. However, this fact was suppressed in the plaint.

v. The entire sale consideration have been paid by the first defendant to the plaintiffs and the daughters of the second plaintiff, who upon receipt of the same, had come to the Office of the Sub Registrar, Tiruttani, and have executed the documents before the Sub Registrar in compliance with the provisions of the Registration Act, and Rules framed thereunder. Soon after the execution of documents, the first



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defendant had taken possession of the properties and also erected a structure thereon and let it out on lease. The revenue records and the electricity service connection too stands in the name of the first defendant.

vi. Now after a period of five years of the execution of the sale deeds, the plaintiffs have joined together and caused undue pressure to the first defendant to re-convey the properties. This was opposed strongly by the first defendant, however, fearing threat to her life at the hands of the plaintiffs, the first defendant gave a police complaint on 09.05.2017, followed by reminders dated 10.05.2017 and 14.05.2017. The second plaintiff's husband Eswara Rao, who is the Power Agent of plaintiffs, had attended the enquiry before the Tiruttani Police Station and had given his statement. Since no action was taken by the police officials, the first defendant and her husband had filed Crl.OP.No.29066 of 2017 on the file of this Court, seeking a direction to police to take action against the plaintiffs and their associates. The first defendant in this Crl.OP., has also prayed that the Court may pass orders to prevent the continuous



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unlawful activities of the plaintiffs. The said CrI.OP was allowed and by order dated 19.01.2018, this Court had directed the registration of the FIR against the plaintiffs and others. The order of this Court dated 19.01.2018 was not implemented as the plaintiffs and their associates have unconditionally agreed to keep their hands off in the said issue.

vii. In the meantime, suppressing the said facts, the plaintiffs have filed the suit on 24.01.2019. The first defendant would submit that the plaintiffs are neither the owners nor they are in possession and enjoyment of the suit property and it appears that the suits are stage-managed and made with an intent to take away the property from the first defendant.

viii. The plaint document Nos.4 to 8, which are the house tax receipts and the electricity bills standing in the name of the second plaintiff and plaintiff's father Omini Srinivasalu Chetty respectively, relates to some other properties and do not pertain to the suit properties. Therefore, the plaintiffs have not only suppressed the aforesaid facts, but also manipulated the documents, with an intention to deprive the first defendant's



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right to property.

- ix. Not only the plaintiffs, but also the daughters of second plaintiff, who had sold the properties to the first defendant had also received the sale consideration, are now attempting to take away the property from the first defendant.
- x. That apart, the associates of the plaintiffs are also instigating the plaintiffs and the husband of the second respondent to interfere with their possession.
- xi. Therefore, the present suit which has been filed by the plaintiffs, by suppressing the material facts and manipulation of documents, is an abuse of process of Court. Hence, the first defendant has sought for the dismissal of the suit.
- xii. It is also alleged in her written statement that the first defendant being aggrieved by the act of the plaintiffs filing a frivolous suit, had filed CRP.No.1137 of 2019 before this Court to strike off the plaint in O.S.No.7 of 2019 on the ground that the suit was filed by suppressing the material facts and playing fraud on Court. This Court by order dated 11.07.2023 in CRP.1137/2019, has directed the first defendant to file an



application under Order & Rule 11 CPC.,

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3. In compliance of the order of this Court in CRP.No.1137 of 2019, the revision petitioner/first defendant had filed I.A.No.7 of 2024, before the Court below, which is the subject matter of the present revision.

4. In the affidavit filed in support of the said application, the first defendant, has in very great detail, set out how the fraud had been played on the Court and also the fact that the plaintiffs have come to Court suppressing the true facts. The plaintiffs and their siblings had sold Item Nos.1 & 2 in 'A' and 'B' schedule property to the first defendant by registered sale deeds dated 01.10.2014, 12.03.2015, 16.03.2015 and 06.11.2015, which facts have not been set out in the plaint. The documents which have been filed particularly, the house tax receipts, electricity bills, do not relate to the suit properties, but relate to some other house property where the plaintiffs and their family reside. The said documents have been filed only to create an impression that the plaintiffs have right to the properties. The plaintiffs are attempting to grab the properties which they have already sold to the first defendant. The plaintiffs have also suppressed the order of this Court dated



19.01.2018 in Crl.O.P.No.29066 of 2017. The first defendant would submit that by astute drafting, a semblance of cause of action has been created by the plaintiffs. However, the documents filed by the first defendant would clearly establish the fraud played on this Court.

5. The respondents/plaintiffs have filed their counter to the said I.A., *inter alia* contending that the first defendant has not set out properly the details of PoAs, sale deeds and settlement deeds. The plaintiffs would submit that the first defendant had played fraud on them and made them to execute the documents in the guise of helping them to transfer some plots in Sengundar Nagar, Tiruttani. The plaintiffs would submit that the first defendant has got the signature of the daughters of Omini Srinivasulu Chetty, who have no right to the property, but only have life interest in the property. That apart, Item No.3 in the 'A' schedule property belongs to Prabavathi, the mother-in-law of the first defendant. However, the plaintiffs denied the same and contends that it also belongs to Omini Srinivasulu Chetty. It is also pleaded that the first defendant had played fraud on them and this would be evident from the fact that for the three items of properties, there are about 10 or more documents created by the first defendant.



Therefore, the plaintiffs would pray that the said I.A. be dismissed.

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6. The learned District Munsif Court, Tirutani, by order dated 28.11.2024, has dismissed the said application on the ground that the suit cannot be rejected on the grounds set out in the written statement and it is only the plaint and the documents enclosed therein, that have to be looked into. The issue of limitation can be considered only after trial and therefore, at this stage, the petition for rejecting the plaint, is not sustainable.

7. Challenging the said dismissal, the revision petitioner/first defendant is before this Court.

8. Heard the learned counsel for the petitioner.

9. The plaintiffs have filed the suit O.S.No.7 of 2019 seeking a permanent injunction restraining the petitioner/ first defendant from interfering with their peaceful possession and enjoyment and also a direction to the Sub Registrar, Tiruttani, restraining him from executing any documents pertaining to the suit schedule properties. The suit properties are



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two in number viz., 'A' Schedule and 'B' Schedule. 'A' schedule property consists of three items of properties and 'B' schedule consists of two items of properties. The first defendant would submit that Item Nos.1 and 2 in 'A' and 'B' Schedule properties have been sold to the first defendant under sale deeds dated 01.10.2014, 12.03.2015, 16.03.2015 and 06.11.2015 respectively. Item No.3 of 'A' schedule property does not belong to the plaintiffs or their family members, but it belongs to one Prabavathi, who is the mother-in-law of the first defendant. The plaintiffs have suppressed these facts in the suit and in paragraph No.5 of the plaint, has cleverly stated that the first defendant is attempting to claim title to the property on 10.12.2018, on the basis of forged and fabricated documents. The plaintiffs and the children of the second plaintiff having executed the documents by themselves and having handed over the possession of the property to the first defendant under these deeds, have come forward to file the suit in question, which is an abuse of process of Court. The trial Court has committed a grave error in stating that the Courts should not look into the contents of the written statement, totally overlooking the fact that in the instant case, the first defendant has pleaded fraud and suppression of material facts. It is not only the plaint that has to be looked into, in case, a vexatious and fraudulent



litigation is put across, but also the written statement have to be taken into account.

10. In ***Raj Narain Sarin Vs Laxmi Devi and Other***, reported in **(2002) 10 SCC 501**, the Hon'ble Supreme Court has observed as follows :

"11. unless the conditions are satisfied under Order 7 Rule 11 of Code of Civil Procedure, the plaint cannot be rejected is without any basis. The provisions of Order 7 Rule 11 are not exhaustive and the Court has got inherent powers to see that the vexatious litigations are not allowed to take or consume the time of the Court. In appropriate cases, directions can be given by this Court as well as the Court in which the suit is filed not to entertain the suit, if on reading the allegations in the plaint, it reveals that the same is abuse of process of law. In this case all the grounds are made out and the very same plaintiff who got defeated in the litigation has agitated the very same issue by filing the present plaint. I appreciate the stand taken by the lower court in rejecting the plaint at the threshold."

11. In ***Poppat Jamal & Sons, Rep. by its Managing Partner Vs. N.M.Venkatachalapathy @ Babulal and another***, reported in 2007 (1) CTC 251, this Court has discussed what fraud is and the relevant portion is as follows :

"10. The above facts would only go to show that the respondents by



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*playing fraud and misrepresentation have filed the suit. The plaintiffs have not approached the Court with clean hands and are guilty of fraud, suppression of facts and misrepresentation and as such they are not entitled for any relief. Fraud is proved when it is shown that a false representation has been made (i) knowingly, or (ii) without belief in its truth, or (iii) recklessly, careless whether it be true or false. Fraud is a conduct either by letter or words, which induces the other person or authority to take a definite determinative stand as a response to the conduct of the former either by words or letter. Although negligence is not fraud but it can be evidence on fraud. A "fraud" is an act of deliberate deception with the design of securing something by taking unfair advantage of another. It is a deception in order to gain by another's loss. It is a cheating intended to get an advantage as has been held by the Apex Court in **S.P.Chengalvaraya Naidy v. Jagannath**, 1994 (1) SCC 1. This aspect of the matter has also been considered by the Hon'ble Supreme Court in its decisions in **Roshan Deen v. Preeti Lal**, 2002(1) SCC 100; **Ram Preeti Yadav v. U.P. Board of High School and Intermediate Education**, 2003 (8) SCC 311; **Ashok Leyland Ltd. v State of T.N.**, 2004 (3) SCC 1; and **State of A.P. and another v. T.Suryachandra Rao**, 2005 (6) SCC 149. In view of the settled legal position of law, the case of the plaintiffs has to be thrown out at the threshold and in this case, it is the duty of the Court to reject the plaint.*

12. The plaintiffs in the present suit have not disclosed the various sale deeds executed by them in favour of the defendant, which are relevant



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for the litigation and further they have withheld the vital documents in order to gain an advantage over the first defendant. After the sale in favour of the defendant, the plaintiffs have no right/title to the suit property. Therefore, the plaintiffs deliberately appeared to have engaged themselves in a clear case of fraud by presenting the plaint, which is devoid of material facts and evidentiary details. Hence, the plaint filed by the plaintiffs deserves to be rejected.

13. Accordingly, the civil revision petition is allowed, and the order of the learned District Munsif dated 28.11.2024 in I.A.No.7 of 2024 in O.S.No.7 of 2019, is set aside. No costs. Consequently, connected miscellaneous petition is closed.

24.04.2025

Index : Yes/No
Neutral Citation : Yes / No
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To:

1.The District Munsif
Tirutani.

14/16



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2.The Section Officer
VR Section
High Court, Madras.

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P.T. ASHA, J.

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