

THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 30.07.2025

Order pronounced on : 22.08.2025

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THE HON'BLE MR. JUSTICE P.B.BALAJI

CRP.No.389 of 2025
& CMP.No.2274 of 2025

1.Preethi.A
2.Aarthi.A

..Petitioners

Vs.

1.S.Jayalakshmi
2.S.Suseela
3.V.Meenakshi
4.S.Manjula

..Respondents

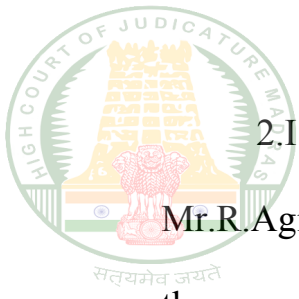
Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order passed by the learned Additional District Judge, Chengalpattu in I.A.No.4 of 2022 in O.S.No.268 of 2020 dated 24.09.2024.

For Petitioners : Mrs.C.R.Rukmani

For Respondents : Mr.R.Agilesh
for Mr.M.Mohamed Hasain

ORDER

The defendants in O.S.No.268 of 2020, aggrieved by the dismissal of I.A.No.4 of 2022 seeking rejection of the plaint under Order VII Rule 11 of CPC, are the revision petitioners herein.



2.I have heard Mrs.C.R.Rukmani, learned counsel for the petitioners and Mr.R.Agilesh, learned counsel for Mr.M.Mohamed Hasain, learned counsel for the respondents.

3.The learned counsel for the petitioners would submit that the suit in O.S.No.268 of 2020 is a clear re-litigation, in view of the earlier proceedings in O.S.No.4 of 2002. The learned counsel for the petitioners, taking me through the reliefs sought for in O.S.No.4 of 2002 as well as the present suit in O.S.No.268 of 2020 and the relationship between the parties to both the suits, would state that the present plaintiffs are clearly bound by the decree in O.S.No.4 of 2002, which has become final and the present suit is nothing but an abuse of process and attempt at re-litigation, which has not been judiciously considered by the Trial Court, while dismissing the application for rejection of the plaint. She would therefore seek for the revision being allowed and the plaint in O.S.No.268 of 2020 being rejected.

4.Per contra, the learned counsel for the respondents would submit that the Trial Court has rightly dismissed the application for rejection of the plaint, finding that the parties will have to adduce oral and documentary evidence at trial and that the plaint cannot be rejected at the inception, summarily. He would also take me through paragraph No.9 of the present plaint in O.S.No.268 of

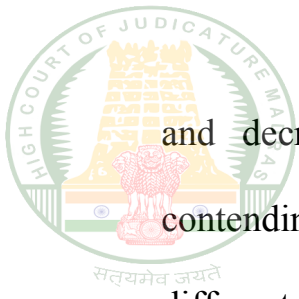


2020 where there is clear reference to the earlier suit in O.S.No.4 of 2002 and the plaintiffs have categorically averred that the suit is not hit by *res judicata* or under the provisions of Order II Rule II of CPC since the subject matter of the suit is entirely different from the one claimed earlier in O.S.No.4 of 2002. He would therefore pray for dismissal of the revision.

5.I have carefully considered the submissions advanced by the learned counsel on either side.

6.The suit in O.S.No.268 of 2020 has been filed to declare the plaintiffs' title over the suit schedule properties and to direct the defendants 1 and 2 to deliver possession of the suit properties, besides also seeking the reliefs of mandatory injunction, permanent injunction as well as mesne profits.

7.No doubt, the respondents have averred about the earlier suit in O.S.No.4 of 2002. According to the respondents, the said suit was filed by Sriramulu, the husband of the 1st plaintiff and father of the plaintiffs 2 to 4 in respect of 15 cents land that he had purchased from G.Ramakrishnan. The said suit admittedly was dismissed by the Trial Court and the appeal filed by Sriramulu under whom the plaintiffs are claiming, in A.S.No.8 of 2012 was also dismissed by the Additional Subordinate Judge, Chengalpattu, and the judgment



and decree in the said proceedings have also become final. However, contending that the property which is subject matter of the said suit is entirely different from the property which is covered by the present suit in O.S.No.268 of 2020, the plaintiffs have justified the maintainability of the suit and the same not being hit by either Section 11 or Order II Rule 2 of CPC.

8.However, it is the contention of the learned counsel for the petitioners that the earlier suit was filed as against the father of the defendants in the present suit, that is the father of the revision petitioners. The sale deed of the father of the revision petitioners was sought to be cancelled in the earlier proceedings. However, the Trial Court did not find favour with the averments and allegations on which O.S.No.4 of 2002 was filed and the suit ultimately came to be dismissed after trial.

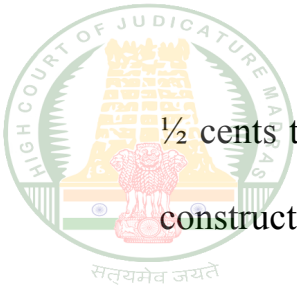
9.It is also not in dispute that first appeal in A.S.No.8 of 2012 filed by N.Sriramulu, husband of the 1st plaintiff and father of the plaintiffs 2 to 4 came to be dismissed on 06.08.2016 and there being no further appeal by way of Second Appeal under Section 100 of CPC to this Court, the matter has attained finality. It is seen that there has been a family partition in the year 1968 between N.Sriramulu under whom the plaintiffs claim and his brother, the father of the defendants, one Ayyanar, in the present suit and subsequently in the year 1971,



there has been an exchange of properties between the said Sriramulu with the neighboring property owner and thereafter, Sriramulu has released the property to his elder brother in the year 1988 and in turn it has been sold to the father of the defendant. Pursuant to all these transactions, there has also been a settlement executed by the 1st defendant to her sister settling half share and the defendants have also put up construction. Based on the construction being put up and taking this as a cause of action, the present suit has been filed.

10.It is the primordial contention of the plaintiffs that the suit property in the earlier suit on the present present property are entirely different and therefore, there is no bar to file the present suit for declaration and various other reliefs. However, on a careful analysis of the facts of the present case, it is seen that the claim of the plaintiffs that the property in the earlier suit is not the subject matter of the present suit is clearly misleading and illusory.

11.Admittedly, Sriramulu become entitled to 15 cents in the 1965 partition in the family. The said 15 cents has been exchanged with the neighbouring owner in the year 1971 and subsequently, Sriramulu has divested himself of all his right in the property in favour of his elder brother who has in turn sold the property to the father of the defendants and another purchaser and subsequently, the defendants' father has in turn settled the property measuring 6



1/2 cents to the 1st defendant who in turn has settled half share to her sister and construction has also been put up.

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12.It is not shown how after the release in favour of the Sriramulu's elder brother, Sriramulu had any right left with himself to be inherited by the plaintiffs. Having exchanged the property that he got under partition deed 1968, the plaintiffs have not been able to show, on a reading of the entire plaint, as to how the plaintiffs get a right or cause of action to seek to declare their title, especially, when the release deed has been admitted by Sriramulu himself in the earlier suit in O.S.No.4 of 2002.

13.Further, admittedly, the title of the father of the defendant was unsuccessful challenged in O.S.No.4 of 2002 and the same has become final. In the light of the above, I am unable to see how the plaintiffs can even claim that the property in the earlier suit and the present suit are entirely different. The plaintiffs are clearly attempting to take advantage of the exchange deed subsequent to the partition deed in the year 1968. In any event, all rights that Sriramulu were released in favour of the elder brother and subsequently, the same has been transferred in favour of the said Ayyanar, father of the defendants.



14. In view of the above, the plaintiffs have not disclosed any cause of action for filing the suit. The Trial Court has unfortunately proceeded to hold that the facts have to be proved and can be decided only at the time of full fledged trial and no case has been made out for rejection of the plaint. The present suit is clear attempt of re-litigation and having already unsuccessfully attempted to challenge the title of the father of the defendants, it is not open to the plaintiffs to come forward with a fresh round of litigation.

15. In view of the foregoing discussions, I find that the plaint is liable to be rejected under Order VII Rule 11(a) and 11(d) of the CPC. Accordingly, the Civil Revision Petition is allowed and the order dated 24.09.2024 in I.A.No.4 of 2022 in O.S.No.268 of 2020 on the file of the Additional District Judge, Chengalpattu, is set aside. Consequently, the plaint in O.S.No.268 of 2020 is struck off. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

22.08.2025

Speaking/Non-speaking order

Index : Yes/No

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To

The Additional District Judge, Chengalpattu.

P.B.BALAJI.J.



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Pre-delivery order made in
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