

CRP.No.623 of 2023

THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 30.07.2025

Order pronounced on : 14.08.2025

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

CRP.No.623 of 2023
& CMP.No.4924 of 2023

1.C.Kothandapani
2.K.Ramachandran

..Petitioners

Vs.

C.Ramaswamy

..Respondent

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decretal order dated 24.01.2023 made in I.A.No.536 of 2022 in O.S.No.151 of 2022 on the file of the Principal Sub-Court, Kallakurichi.

For Petitioners : Mr.N.Manoharan

For Respondent : Mr.J.Abdul Hadi

ORDER

The defendant, aggrieved by the order of the dismissal of the application under Order VII Rule 11 of CPC for rejection of the plaint is before this Court.

2.I have heard Mr.N.Manoharan, learned counsel for the petitioners and



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Mr.J.Abdul Hadi, learned counsel for the respondent.

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3.The learned counsel for the petitioners would contend that the Trial Court has erroneously dismissed the application for rejection of the plaint, without noticing that the plaint did not disclose a cause of action and had no legs to stand. The learned counsel for the petitioners, inviting my attention to the plaint, would state that the plaintiff had no subsisting right or interest in the suit property on the date of institution of the suit, having settled the property in favour of his wife in the year 1978. The learned counsel for the petitioners would further state that the revision petitioners/defendants have purchased the property from the wife of the plaintiff in 1980 and has been in possession and enjoyment of the said property in their own rights by paying taxes and other charges including mutating all revenue records. However, suppressing the settlement deed in the plaint, the plaintiff has come forward with the suit seeking the relief of declaration of his title and for mandatory injunction for recovery of possession.

4.The learned counsel for the petitioners would therefore state that the Trial Court has, without any proper discussion on the points urged seeking rejection of the plaint, has conveniently sidestepped all contentious issues and



grounds on which rejection was sought for and has simply dismissed the application, saying that the parties are required to lead evidence and only thereafter, the suit can be decided, one way or the other. The learned counsel for the petitioners would place reliance on the decision of this Court in *K.S.Yogalaxmii Vs. B.Sujatha and Others* in CRP.No.802 of 2025 dated 24.04.2025 and the decision of the Hon'ble Supreme Court in *S.P.Chengalvaraya Naidu (Dead) by LRs Vs. Jagannath (Dead) by LRs and Others*, reported in (1994) 1 SCC 1, in support of his contentions.

5.Per contra, the learned counsel for the respondent would state that the plaintiff has not admitted the settlement deed and therefore, when he seeks for declaration of his title, without requiring oral and documentary evidence to be adduced by the parties, the Trial Court cannot summarily reject the plaint. He would therefore contend that the Trial Court has not committed any error in dismissing the application for rejection of the plaint.

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

7.On a reading of the plaint, I find that there is no reference to the fact



that the suit property was settled on the plaintiff's wife and thereafter, sold to the defendants. In fact, the plaint merely proceeds on the footing that the plaintiff got the property by way of a partition dated 30.07.1975, but, however patta has been wrongly mutated in the 1st defendant's name. The plaintiff had permitted the 1st defendant to occupy the property and that the 1st defendant had taken advantage of the same and mutated revenue records in his name. However, when the application for rejection of the plaint was filed, in the counter to the said application, the plaintiff admits the fact that the settlement deed was executed by the plaintiff in favour of his wife on 22.02.1978. However, the plaintiff claims that the said settlement deed was not acted upon.

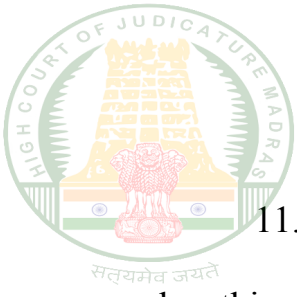
8.Firstly, the plaintiff ought to have disclosed all material facts and circumstances before the Court, especially when he approaches the Court seeking the relief of declaration of title and recovery of possession. Therefore, in the light of the averments in the counter to the reject the plaint application, it is clear that the plaintiff has suppressed the factum of the settlement deed executed by him in favour of the wife in the year 1978. It is only from the plaintiff's wife that the property has been purchased by the revision petitioners.

9.This Court in *K.S.Yogalaxmii's case*, has held that the Trial Court ought



to have looked into the contents of the written statement when the plea of fraud and suppression of material facts is raised. Relying on the decisions of the Hon'ble Supreme Court in *Raj Narain Sarin Vs. Laxmi Devi and Others*, reported in (2002) 10 SCC 501 and *Poppat Jamal and Sons, Rep. by its Managing Partner Vs. N.M.Venkatachalapathy @ Babulal and Another*, reported in 2007 (1) CTC 251, this Court has disposed of the revision petition, rejecting the plaint, since, after sale of the property in favour of the defendants, the plaintiff had no right or title to the suit property and the plaintiff had deliberately suppressed the material facts and played fraud by presenting the plaint devoid of material facts and evidentially details. The said decision would squarely apply to the facts of the present case.

10. Even in *S.P.Chengalvaraya Naidu's case*, the Hon'ble Supreme Court has held that if there is any fraud played, then it would only render all actions a nullity and nonest in the eye of law and the litigant who approaches the Court is bound to produce all documents executed by him which are relevant to the litigation and in the event of withholding any vital document in order to gain advantage in the other side, then he would be guilty of playing fraud on the Court as well as on the opposite party.



11. Applying the ratio laid down by the Hon'ble Supreme Court as well as by this Court in *K.S.Yogalaxmii's case*, it is clear that the plaintiff has suppressed material facts and circumstances, especially, the settlement deed executed by him, way back in February 1978 based upon which, the property has been sold to the revision petitioners in 1980. Therefore, there is absolutely no cause of action for filing the suit for declaration and recovery of possession. Moreover, the plaintiff himself admits the execution of the settlement deed in favour of the wife, only after the same was pointed out in the application seeking rejection of the plaint and conveniently the plaintiff alleges that the said settlement deed has not been acted upon. The said plea deserves no consideration whatsoever since soon after the settlement, within a span of two years, the plaintiff's wife has chosen to dispose of the property in favour of the revision petitioners and for the past several decades, the petitioners have been peaceful possession and enjoyment of the property in their own right.

12. In such view of the matter, the Trial Court is clearly fell in error in not rejecting the plaint, invoking Order VII Rule 11(a) of CPC on the ground that the plaint does not disclose a cause of action in favour of the plaintiff. Moreover, even applying the law of limitation, the settlement deed has not been challenged in a manner know to law, within the statutory period of three years



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and the consequent sale deed also has not been challenged. Therefore, at this point of time, no relief can be granted to the plaintiff in his suit for declaration of title and recovery of possession.

13.In fine, the Civil Revision petition is allowed and the order dated 24.01.2023 made in I.A.No.536 of 2022 in O.S.No.151 of 2022 on the file of the Principal Sub-Court, Kallakurichi is set aside. Consequently, the plaint in O.S.No.151 of 2022 is rejected. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

14.08.2025

Speaking/Non-speaking order

Index : Yes/No

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To

The Principal Sub-Court, Kallakurichi.

P.B.BALAJI.J.



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Pre-delivery order made in
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