



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 14.11.2025

Order pronounced on : 21.11.2025

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THE HONOURABLE MR JUSTICE P.B. BALAJI

A.S.No.212 of 2024

& CMP.No.7577 of 2024

Iyyamperumal Gounder

... Appellant

Vs.

1.Arumuga Gounder

2.Kulandhai Ammal

3.Perumal

S/o. Arumuga Gounder

4.Perumal

S/o.Iyyamperumal Gounder

5.Mariammal

6.The District Collector,

Salem District,

Having office at Collectorate Campus,

Salem – 636 001.

7.The Registrar General of Registration,

Registration Department,

Having office at Santhom High Road,

Pattinapakkam,

Chennai – 600 082.



8.The District Registrar,
Salem West,
Having office at Salem Collectorate Campus,
Salem – 636 001.

9.The Sub Registrar,
Jalagandapuram,
Jalagandapuram Sub-Registrar office,
Jalagandapuram (Post),
Mettur Taluk,
Salem – 636 501.

... Respondents

Prayer: Appeal Suit filed under Section 96 r/w Order XLI of CPC, 1908, to set aside the order dated 12.01.2024 passed in O.S.No.291 of 2023 on the file of the learned Additional District Judge, Fast Track Court, Mettur.

For Appellant : Mr.Sam Jayaraj Houston
for M/s.Sarvabhauman Associates

For Respondents : Mr.P.Veeraraghavan for RR1 to 3
Mr.G.Nanmaran
Special Government Pleader for RR6 to 9
No appearance for RR4 & 5

JUDGMENT

The appellant is the plaintiff in O.S.No.291 of 2023 before the learned Additional District Judge (Fast Track Court), Mettur.



2.The plaintiff had filed a suit for partition and separate possession and also for a relief of permanent injunction. The plaintiff, pending the suit, filed an application in I.A.No.7 of 2023, for impleading certain third parties as defendants. The said application was enquired into and orders were reserved. At that point of time, the Court, finding that the plaint was liable to be rejected, suo motu, proceeded to reject the plaint. The said order of rejection of the plaint is under challenge in this first appeal.

3.I have heard Mr.Sam Jayaraj Houston, for M/s.Sarvabauman Associates, learned counsel for the appellant and Mr.P.Veeraraghavan, learned counsel for the respondents 1 to 3 and Mr.G.Nanmaran, learned Special Government Pleader for the respondents 6 to 9.

4.Mr.Sam Jayaraj Houston, learned counsel for the appellant would submit that the trial Court was not entitled to suo motu invoke the provisions of Order VII Rule 11 of CPC and reject the plaint, that too, when there was not even an application taken out by any of the defendants, seeking rejection of the plaint. He would further submit that even assuming



the trial Court found that the plaint was not maintainable, the trial Court ought to have given an opportunity to the plaintiff to argue on the maintainability and without even giving an opportunity to the plaintiff and that too, after having reserved orders in an application to implead the proposed parties, the trial Court clearly erred in proceeding to reject the plaint. He would therefore pray that the parties would have to be necessarily relegated to a full fledged trial and the order of the trial Court has to be set aside.

5.Per contra, Mr.P.Veeraraghavan, learned counsel for the respondents 1 to 3 would submit that the trial Court has passed a well considered order, giving elaborate reasons as to why the plaint is liable to be rejected and the order does not require any interference in appeal.

6.After hearing the learned counsel for the parties, the only that arises for consideration in this appeal is as to whether the trial Court was justified in exercising a suo motu power to reject the plaint under Order VII Rule 11 of CPC.



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7.The plaintiff, claiming that the suit property was originally belonging to Anakuttai Gounder and that he was blessed with four sons, out of which, three sons died without legal heirs and the plaintiff's father, Iyyamperumal Gounder became entitled to the suit property and consequent to his demise, the plaintiff and defendants 4 and 5, being his sons and daughter, are entitled to share in the suit property, had filed the suit. The plaintiff has also challenged the documents created by the 1st defendant, along with the defendants 2 and 3.

8.The 3rd defendant had filed his written statement and even before issues were framed in the suit, the plaintiff had filed I.A.No.7 of 2023 to implead subsequent transferees, as defendants in the suit. The said application was enquired into and orders were reserved by the trial Court. While disposing of the application for impleadment, the trial Court, without discussing the merits and demerits of the impleading application, has straight away proceeded to reject the plaint, that too, relying on the documents filed by the defendants 1 to 3.



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9.The said order of the trial Court does not stand the scrutiny of law even for a moment. Firstly, in the absence of an application filed by the defendants, invoking any of Rule 11 of Order VII of CPC, the trial Court ought not to have ventured to test the plaint with regard to its maintainability. Secondly, the trial Court could not have relied on the documents filed by the defendants 1 to 3, merely because they are registered documents. It is settled law that in an application for rejection of plaint, it is only the plaint averments and allegations and the documents filed along with the plaint which can be considered. Clearly, in the present case, the trial Court has exceeded its power and jurisdiction, warranting interference in the first appeal. The point is answered in favour of the appellant.

10.In fine, the Appeal Suit is allowed. The order dated 12.01.2024 passed in O.S.No.291 of 2023 on the file of the learned Additional District Judge, Fast Track Court, Mettur, is set aside and the suit is O.S.No.291 of 2023 restored to file. The trial Court shall decide I.A.No.7 of 2023, on merits, within a period of four weeks from the date of receipt of a copy of



this order and subject to the result of the said application, the suit shall be proceeded with on merits and in accordance with law and the same shall be disposed of on merits. It is made clear that this order shall not come in the way of the defendants seeking rejection of the plaint, invoking Order VII Rule 11 of CPC on any available grounds. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

21.11.2025

Neutral Citation: Yes/No
Speaking Order/Non-speaking Order
Index : Yes / No
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To

1.The Additional District Judge (Fast Track Court), Mettur.

2.The District Collector,
Salem District,
Having office at Collectorate Campus,
Salem – 636 001.

3.The Registrar General of Registration,
Registration Department,
Having office at Santhom High Road,
Pattinapakkam,
Chennai – 600 082.

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P.B. BALAJI,J.

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Pre-delivery order made in

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