



O.S.A. No.215 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2025

CORAM :

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

O.S.A. No.215 of 2025
and
C.M.P. Nos.14124 and 16520 of 2025

1.P.S.Kirubakaran

2.P.S.Anandan

... Appellants/ Applicants

Vs.

A.Azizul Karim

... Respondent

Prayer: Original Side Appeal filed under Clause 15 of the amended Letters Patent read with Order XXXVI Rule 1 of the Original Side Rules to set aside the order in A.No.2834 of 2024 in C.S.No.212 of 2017 dated 07.02.2025 and allow the appeal.

For Appellant(s) : Mr.B.Vijay
for Mr.N.Nandakumar

For Respondent(s) : Mr.Aravind Subramanian
Senior Counsel
for Mr.K.Gangadharan

JUDGMENT

(Judgment of the Court was made by *S.M.SUBRAMANIAM, J.*)

Under assail is the order dated 07.02.2025 in Application No.2834 2024 in C.S.No.212 of 2017. The defendants are appellants before this



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Court. The respondent has instituted a Civil Suit for specific performance.

2. The appellants preferred application initially under Order VII Rule 11 of the Original Side Rules to reject the plaint and by withdrawing the same, filed subsequent application under Order VI Rule 16 of Code of Civil Procedure, to strike off plaint in C.S.No.212 of 2017.

3. The facts in brief reveals that 1st appellant/ 6th defendant in Suit claims to be co-owner of Suit Schedule property situated in Old S.No.2055, New S.No.273, Old Door No.129, New Door No.98, Coral Merchant Street, George Town, Chennai, measuring to an extent of 2163 sq.feet. 1st appellant received suit summons on 19.03.2019 in O.S.No.385 of 2019 on the file of I Assistant City Civil Court, Chennai. It was informed to appellants that Suit decreed ex-parte in C.S.No.212 of 2017 against appellants.

4. While hearing O.S.No.385 of 2019, the learned counsel for respondent informed the Court about ex-parte decree passed against appellants and others in C.S.No.212 of 2017. Thereafter, 1st appellant



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filed search memo in C.S.No.212 of 2017 and obtained certified copies of plaint, plaint documents, process service report of bailiff for issuance of suit summons on defendants and came to know that a forged sale agreement dated 02.06.2014 was filed in a Suit for specific performance in C.S.No.212 of 2017.

5. 1st appellant filed an application to institute perjury proceedings against respondent in Application No.944 of 2020 in the said Suit and application was allowed by this Court vide order dated 01.10.2020. Consequently, Registrar General, High Court of Madras filed a complaint against respondent and criminal case ended with an order of conviction against the respondent.

6. During search, police authorities have recovered several documents which all are subsequently found to be fabricated in order to grab some other properties. The modus operandi adopted by respondent as per police report appears that respondent / accused in perjury case, used to enter into a lease agreement and with the help of his syndicate institute Suits with a fake address and address for service in suits. Ex-parte decrees were obtained and based on ex-parte decree,



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execution petitions have been filed.

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7. Having found that respondent has involved in forgery, fabrication of documents and instituted suits based on such fabricated documents, appellants filed an application to strike off plaint. Learned Single Judge dismissed the application and therefore the present appeal came to be instituted.

8. Learned counsel for the appellants would mainly contend that suit documents namely agreement for sale and advance payment receipts are proved to be fraudulently created. In the perjury case, respondent was convicted by Criminal Court of Law. That apart, sale agreement, which is the subject matter of C.S.No.212 of 2017 was prepared against dead persons. Despite the fact that Criminal Court convicted the respondent for committing an offence of forgery, Trial Court has dismissed the petition and therefore the present appeal is to be allowed.

9. Learned Senior Counsel appearing on behalf of the respondent would oppose by stating that mere allegations set out regarding fraud



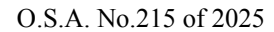
would be insufficient. There are materials available on record to establish suit for specific performance. When several observations in earlier proceedings are made, it would be appropriate to complete Trial in all respects. Therefore the present appeal is to be rejected. Learned Senior Counsel relying on the scope of Order VI Rule 16 of Code of Civil Procedure would submit that application has been filed to struck off pleadings, which cannot be applied for striking off the entire plaint. Thus, Trial Court has rightly dismissed the petition.

10. This Court heard the arguments as advanced between the parties to the lis on hand.

11. Let us first examine the scope of Order VI Rule 16 of Code of Civil Procedure, and relevant provision is extracted below:

"16. Striking out pleadings.—The Court may at any stage of the proceedings order to be struck out or amended any matter in any pleading—
(a)....
(b)....
(c) which is otherwise an abuse of the process of the Court."

12. An application was filed mainly relying on Order VI Rule 16 of



13. Coming to the present case, the respondent / plaintiff relied on seven documents in the plaint, they are:

<i>S.No.</i>	<i>Date</i>	<i>Description</i>	<i>Remarks</i>
1.	02.06.2014	Sale Agreement	Original
2.	10.02.2014	Advance payment receipt	Original
3.	03.03.2014	Advance payment receipt	Original
4.	05.04.2014	Advance payment receipt	Original
5.	10.05.2014	Advance payment receipt	Original
6.	02.06.2014	Advance payment receipt	Original
7.	01.03.2017	Lawyer notice with postal receipt	Copy

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Criminal Court tried the case and convicted the respondent. Though a Criminal Appeal came to be filed, conviction has not been stayed. As of now, plaint documents relied on in a Suit for specific performance are established as fraudulent documents.

15. Beyond perjury complaint which ended with an order of conviction, several other serious allegations of fraud and forgery has been raised against respondent in the present case. Learned counsel for appellants would bring it to the notice of this Court that Commissioner of Police, Chennai, in his counter affidavit filed in H.C.P.No.2505 of 2020 before the High Court has stated about the respondent herein as follows:

“7. I respectfully submit that the Arrest and Subsequent Developments:

The detinue/A1 was arrested on 2.9.2020 and the accused voluntarily given the confession to the respondent on 02.09.2020. The accused was also taken into short period of three days custodial interrogation and he had given confessions of furthermore crimes in which he had played as master mind and based on the confessions, this respondent have recovered many documents admitted by the petitioner as forged and fabricated to grab many properties and based on the confession this respondent has recovered the following:

a. ID card – High Court of Judicature at Madras,



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Government of Tamilnadu High Court Building, Madras-104, Registrar General, High Court of Madras. Name: A.Azizul Karim, Designation : Government Pleader. Enrol No.1503/99, Date of Birth: 23.10.1996.

b. ID card – A.Azizul Karim, Civil Judge Junior Division/ Judicial Magistrate, I Class Registrar General, High Court, Madras.

c. Seals : Dr.Noor Huzir A.S. MBBS, DCH, Reg No.55216, Assistant Surgeon Department and Pediatrics, Government Royapettah Hospital, Chennai-600 104.

d. Nripendra Nath Bain, Advocate, The Supreme Court of India, New Delhi.

e. Round Seal: Notary R.Narayanasamy, Chennai City G.O.Ms.No.30, Government of Tamil Nadu.

8. I respectfully submit that the above would categorically show that the detainee and others ran a well planned syndicate and they have run parallel fake Courts to commit their criminal acts and to show to the world that they are getting legal orders from the concerned Civil Courts.

9. I respectfully submit that the Second Confession:

On 08.09.2020 during the custodial interrogation the detainee has given confession and given alarming details of the nature and ways in which he had carried out his organised syndicate.

Documents recovered after Second Confession:

a. Settlement Agreement between the defacto complainant in the ground case Kirubakaran and one



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A.R.Buhari.

b. Two Bar Council Advocate Ids of Supreme Court Advocate from Gujarat and Ernakulam Bar Councils.

c. Fake Seals.

d. Pen Drive.

e. Filled Cheques.

f. Fake legal notices.

g. Fake life Certificates.

h. Fake unregistered settlement agreement between detinue and K.G.Srinivasan for Rs.30 crores.

i. Blank Stamp papers from the year 1980.

j. Fake unregistered settlement agreement between Detinue and Vimala for 3 crores.

k. Fake Document created using Government Pleader Seal.

l. Hand Written notes of Supreme Court Advocate Krishnamoorthy regarding the litigation between detinue and said defacto complainant.

m. Morphed Photographs in which the detinue is seen close to Supreme Court Judges and other Advocates.”

16. Scope of Order VI Rule 16 of the Code of Civil Procedure to strike off the entire plaint on the ground of abuse of the process of Court has been considered and decided in the following judgments:

i) In the case of ***K.K.Modi vs. K.N.Modi and others*** reported in



(1998) 3 SCC 573, the Apex Court made the following observations:

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“42. Under Order 6 Rule 16, the court may, at any stage of the proceeding, order to be struck out, inter alia, any matter in any pleading which is otherwise an abuse of the process of the court. Mulla in his treatise on the Code of Civil Procedure, (15th Edn., Vol. II, p. 1179, note 7) has stated that power under clause (c) of Order 6 Rule 16 of the Code is confined to cases where the abuse of the process of the court is manifest from the pleadings; and that this power is unlike the power under Section 151 whereunder courts have inherent power to strike out pleadings or to stay or dismiss proceedings which are an abuse of their process. In the present case the High Court has held the suit to be an abuse of the process of the court on the basis of what is stated in the plaint.

43. The Supreme Court Practice 1995 published by Sweet & Maxwell in paragraphs 18/19/33 (p. 344) explains the phrase “abuse of the process of the court” thus:

“This term connotes that the process of the court must be used bona fide and properly and must not be abused. The court will prevent improper use of its machinery and will in a proper case, summarily prevent its machinery from being used as a means of vexation and oppression in the process of litigation. ... The categories of conduct rendering a claim frivolous, vexatious or an abuse of process are not closed but depend on all the relevant circumstances. And for this purpose considerations of public policy and the interests of justice may be very material.”



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44. One of the examples cited as an abuse of the process of the court is relitigation. It is an abuse of the process of the court and contrary to justice and public policy for a party to relitigate the same issue which has already been tried and decided earlier against him. The reargitation may or may not be barred as *res judicata*. But if the same issue is sought to be reargitated, it also amounts to an abuse of the process of the court. A proceeding being filed for a collateral purpose, or a spurious claim being made in litigation may also in a given set of facts amount to an abuse of the process of the court. Frivolous or vexatious proceedings may also amount to an abuse of the process of the court especially where the proceedings are absolutely groundless. The court then has the power to stop such proceedings summarily and prevent the time of the public and the court from being wasted. Undoubtedly, it is a matter of the court's discretion whether such proceedings should be stopped or not; and this discretion has to be exercised with circumspection. It is a jurisdiction which should be sparingly exercised, and exercised only in special cases. The court should also be satisfied that there is no chance of the suit succeeding.”

ii) In the case of **SNP Shipping Services vs. Kara Mara Shipping Co.Ltd.** reported in (2000) 1 MHLJ 699, the Bombay High Court held as follows:

“19. I am of the considered opinion that it would be a travesty of justice to permit the plaintiffs to enter the portals of the High Court indirectly when their entry has been emphatically



barred by the Supreme Court directly. This Court has the power to reject the plaint on the ground that it is an abuse of the process of the Court not only by virtue of Order 6, Rule 16, Civil Procedure Code but also by virtue of the powers conferred on this Court under Article 215 of the Constitution of India. Paragraph 19 of the judgment in Bomi Munchershaw (supra) makes this proposition absolutely clear wherein it is held as under:

“19. The above narration indicates that though the words “abuse of the process of the Court” occurred for the first time on 01.02.1977 in Order 6, Rule 16 of the Code of Civil Procedure, this power was immament in and arose from a High Court being a Court of Record under the Letters Patent as well as Article 215 of the Constitution.”

Thus, it is apparent that Order 6, Rule 16 is not the sole repository for the power of the High Court to reject the plaint for abuse of the process of Court. In my view, the plaintiffs have not come to Court with clean hands. For the aforesaid reasons the plaint has to be rejected. When abuse of process is clearly established before the Court, it is not sufficient merely to dismiss the action. It is bounden duty of the Court to express its disapproval of the course adopted by the parties.....”

iii) In the case of **Sanjeev Kumar Jain vs. Raghubir Saran Charitable Trust** reported in **2011 (125) DRJ 1**, the Delhi High Court held as follows:



“12.However, it can hardly be disputed that when the pleadings are found to be false, frivolous and vexatious, to the knowledge of the person making those pleadings, they ought to be struck off, so as not to allow the party to go to trial on the basis of such pleadings.”

iv) In the case of **Saraswathi Ammal and others vs. Govindan and Another** in **C.R.P.(PD)No.1133 of 2018**, the learned Single Judge of this Court passed the following order on 17.08.2020:

“17. Coming to the reasoning of the learned Trial Judge that an application under Order 6 Rule 16 is not maintainable, I am of the considered opinion, that the Courts should not be bogged down by such technical consideration in matters of this nature where a litigant is trying to engage in wasteful successive litigations in order to protect its non-existent right.

18. Rule 16 of Order 6 of the Code of Civil Procedure, empowers the Court to strike out pleadings which are unnecessary scandalous, frivolous or vexatious or which amount to an abuse of the process of the Court. A reading of the plaint in the case on hand would show that the entire plaint would come within the scope of the words “abuse of the process of the Court”, if those pleadings are struck out the plaint cannot stand. Hence the plaint will have to be rejected under Order 7 Rule 11 of the Code of Civil Procedure. Even otherwise, this Court sitting under Article 227 of the Constitution of India, has the power to strike out the plaint if it finds that it is an abuse of the process of the Court.

.....



24. From the above observations, it is clear that even without an application under Order 7 Rule 11 of the Code of Civil Procedure or under Order 6 Rule 16, the Court is empowered to strike out the pleadings or even throw out the plaint, if it is found that the plaint is an abuse of the process of the Court or is a re-litigation. The facts stated above are sufficient to demonstrate that the present suit is a clear abuse of the process of the Court and amounts to a challenge to the title of the defendant which has been accepted by this Court in Second Appeal earlier and a decree for possession had been granted in favour of the defendant and the said decree having been handed over to the defendant. I am convinced that this suit cannot stay on file even a moment longer as it would demean the very majesty of the justice delivery system.”

v) The Supreme Court of India in the case of **Maria Margarida Sequeira vs. Erasmo Jack Sequeira** reported in **(2012) 6 SCC 430**, held as follows:

"False claims and false defences

81. False claims and defences are really serious problems with real estate litigation, predominantly because of ever-escalating prices of the real estate. Litigation pertaining to valuable real estate properties is dragged on by unscrupulous litigants in the hope that the other party will tire out and ultimately would settle with them by paying a huge amount. This happens because of the enormous delay in adjudication of cases in our courts. If pragmatic approach is adopted, then this problem can be minimised to a large extent.



82. *This Court in a recent judgment in Ramrameshwari Devi [(2011) 8 SCC 249 : (2011) 3 SCC (Cri) 481 : (2011) 4 SCC (Civ) 1] aptly observed at p. 266, para 43 that unless wrongdoers are denied profit from frivolous litigation, it would be difficult to prevent it. In order to curb uncalled for and frivolous litigation, the courts have to ensure that there is no incentive or motive for uncalled for litigation. It is a matter of common experience that the court's otherwise scarce time is consumed or more appropriately, wasted in a large number of uncalled for cases. In this very judgment, the Court provided that this problem can be solved or at least can be minimised if exemplary costs is imposed for instituting frivolous litigation. The Court observed at pp. 267-68, para 58 that imposition of actual, realistic or proper costs and/or ordering prosecution in appropriate cases would go a long way in controlling the tendency of introducing false pleadings and forged and fabricated documents by the litigants. Imposition of heavy costs would also control unnecessary adjournments by the parties. In appropriate cases, the courts may consider ordering prosecution otherwise it may not be possible to maintain purity and sanctity of judicial proceedings."*

17. Modus operandi of the respondent fabricating identity cards issued by High Court of Judicature at Madras, Government of Tamil Nadu, Government Pleader's Office, Tamil Nadu Advocate's Clerk's Association, Chennai and I.D. Card issued to Judicial Officers are shocking the conscious of this Court. Having noticed nature of fraudulent



activities as stated by Commissioner of Police and modus operandi elaborated in the counter affidavit filed in H.C.P. Proceedings, this Court has asked a question to the learned Senior Counsel, whether the respondent is present before this Court. The Learned Senior Counsel informed us that he is very much present before this Court. This Court asked the respondent to produce the entry pass issued by the Madras High Court to attend the present in Court Hall No.4. However, respondent through learned Senior Counsel produced I.D. Card issued by Tamil Nadu Advocate's Clerk's Association. Having noticed about the serious allegations made against respondent, this Court directed Registrar General, Madras High Court, to verify the genuinity of I.D. Card produced by the respondent in Open Court Registrar General, Madras High Court, verified the I.D. Card with High Court Registry as well as with the Advocate's Clerk's Association and informed this Court that no such identity card has been issued. This Court asked the Registrar General, Madras High Court to register a police complaint against respondent for having entered into the Court premises by using a fraudulent Advocate Assistant card and regarding other fraudulent I.D. Cards which have been enclosed along with the typedset of papers by the appellants in the present case.



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18. Having found that suit documents in entirety are established as fraudulent documents before Criminal Court of Law and the respondent is convicted, there is no reason for this Court to brush aside the contentions raised on behalf of the defendants in a Suit for specific performance. The conduct of the respondent is also found to be not satisfactory, since numerous criminal cases have been registered against him and details of those criminal cases are stated by Commissioner of Police, Chennai, in his counter statement filed in H.C.P. proceedings. Thus, the case on hand is a fit case where this Court has to exercise its powers conferred under Article 227 of the Constitution of India read with Clause 15 of Letters Patent and Section 115 of Code of Civil Procedure.

19. The present case is also a case of re-litigation. Earlier a Suit was instituted in O.S.No.356 of 2013 on the file of VII Assistant Judge, City Civil Court, Chennai based on sale agreement dated 15.03.2012 for a sale consideration of Rs.1 crore. The said sale agreement is also stated to be forged. The present suit for specific performance is in respect of the very same property. The value of the property in the



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present sale agreement is stated as Rs.25 lakhs and the said sale agreement is found to be forged in the criminal case.

20. Learned counsel for appellants would further submit that lawyers, conducting cases on behalf of appellants herein are not spared by the respondent. He preferred complaint for professional misconduct under Section 35 of the Advocates Act, 1961 before the Bar Council of Tamil Nadu and Puducherry in Complaint No.340 of 2022, which came to be rejected. Thereafter, respondent preferred an appeal before the Bar Council of India in Revision Petition No.25 of 2023. The Bar Council of India conducted detailed enquiry and rejected the petition and made a finding that review petition is nothing but a frivolous litigation to harass the opponent counsel and a complaint for professional misconduct is found to be abuse of process of law committed by the review petitioner therein who is none other than the respondent in the present appeal. The findings made by the Bar Council of India in its order dated 07.01.2024 are as under:

“14. There is no reason to interfere with the impugned resolution passed by the Bar Council of Tamil Nadu and Puducherry refusing to refer the complaint to Disciplinary Committee for enquiry and therefore, the revision petition filed by



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the petitioner/complainant is dismissed. The respondents brought to the notice of this Committee, among the other fake Ids and seals, the investigation officer has recovered a seal in the name of counsel appearing for the revision petitioner Mr.Nripendra Nath Bain. This Committee perplexed to see that the revision petitioner is using/misusing in Chennai of the seal of advocate practicing in Supreme Court of India. On being asked the counsel for the revision petitioner pleaded ignorance of the same and he did not at any point of time handed over his advocate seal to revision petitioner. The statement of Learned Counsel Mr.Nripendra Nath Bain is taken on record.

15. Furthermore, the revision petitioner also sent a representation on 07.12.2023 to the Hon'ble Chief Justice of Madras High Court and Learned Advocate General, State of Tamil Nadu to relieve the first respondent from the post of Additional Government Pleader on the ground that the present revision petition of the professional misconduct is pending against the first respondent. This conduct of abusing the process of this Committee to axe a grind against opponent lawyers deserves to be curbed. The revision petitioner knowing well that his revision petition is not even admitted by this Committee has chosen to target the respondent advocate would conclusively establish that his complaint and his revision petitioner is vengeful. Mere pendency of revision petition was grossly abused by the revision petitioner and Section 35 of the Advocate Act cannot be permitted to be used as a weapon by a party to attack the counsels appearing for his opponents. The Committee see no doubt pure vengeance by the revision petitioner in continuously targeting his opponent counsels and harassing them with one after another



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frivolous litigations.”

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21. In view of the facts and circumstances, the order dated 07.02.2025 in Application No.2834 2024 in C.S.No.212 of 2017 is set aside and the plaint in C.S.No.212 of 2017 is struck off and consequently the Original Side Appeal stands allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

[S.M.S., J.]

[M.S.Q., J.]

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/ No
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