IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE P.DHANABAL

A. Nos.2576 of 2025
in
C.S. No.29 of 2025

1. Rajalakhsmi Ponnuvelu
D/o. Ponnuvelu
New No.14 Old No.34,
Bharathidasan Street, Thiru Nagar,
Jhafferkhanpet, Ashok Nagar,
Chennai – 600 083.

2. Poornima
D/o. Ponnuvelu,
New No.14 Old No.34, Bharathidasan Street,
Thiru Nagar, Jhafferkhanpet, Ashok Nagar,
Chennai – 600 083.

3. P.Radhika
D/o. Ponnuvelu
New No.14 Old No.34, Bharathidasan Street,
Thiru Nagar, Jhafferkhanpet, Ashok Nagar,
Chennai – 600 083. . … Applicants]

Vs.

1. M.Kavitha
W/o. N.B.Mohanasundaram
12 – D Tank Street United India Colony,
Kodambakkam,
Chennai – 600 024.

2. S.Vidya
   W/o. V.Suresh
   No.3, 16th Street, Manohar Nagar,
   VTC : Pallikaranai PO: Pallikaranai
   District Chennai 600 100.

3. N.Sharmila
   D/o. S.Namashivayam
   Rep by her Next Friend/Sister M.Kavitha
   12 -D Tank Street United India Colony,
   Kodambakkam, Chennai – 600 024.

4. P.Velmurugan S/o. Paulswamy
   No.195th Cross Nal Road,
   Opposite Manjunath Appartments,
   Murugesh Palya, Banglore,
   Karnataka – 560 017.

5. District Collector, Chennai
   Fourth Floor, M.Sigaravelar Maaligai
   62, Rajaji Salai, Chennai Collectorate,
   Chennai – 600 001.

6. Tahsildar
   Egmore Taluk Office,
   No.88, Mayor Ramanathan Salai,
   Chetpet – 600 031. ....Respondents

PRAYER : This application has been filed under Order XIV Rule VIII of Original Side Rules read with order VII Rule 11 of Civil Procedure Code praying to reject the plaint in C.S.No.29 of 2025.

For Applicant	:	Mr.A.E.Ravichandran
For R1 to R3	:	Mr.J.Nandagopal
For R4	:	Mr.N.Anbazhagan No appearance
Fir R5 & R6	:	Mr.D.Gopal Government Advocate

JUDGMENT

This application has been filed by the applicants to reject the plaint under order VII Rule 11 of CPC.

2. The brief averments of the application are as follows:

The 1st applicant is the 1st defendant in the main suit and the other applicants are defendants 2 & 3 in the main suit. The respondent plaintiffs have filed the main suit for the relief (i) to dissolve the firm M/s. Sree Lakshmi Timber Mart and to declare that the plaintiffs are entitled to half share in the said Partnership Firm assets (ii) to declare the sale deed dated 11.09.2023, registered as document No.4109 of 2023, executed by the defendants in favour of the 4th defendant as Null and Void, (iii) for Permanent Injunction, restraining the 4th defendant from putting up new construction in the suit schedule property and (iv) permanent injunction restraining the 5th and 6th defendants from mutating the 4th defendant's name in revenue records pertaining to the suit property.

2.1 The plaint averments show that the plaintiffs claim that the suit property is a partnership property and that, being the legal heirs of the deceased partner Mrs.N.Meera, they claim half share in the suit property. The 1st relief in the plaint is the main relief and all other relieves are consequential relieves and if the 1st prayer in the suit fails, automatically the other relieves cannot be granted. M/s. Sree Lakshmi Timber Mart is an unregistered partnership firm created by an unregistered Partnership Deed dated 01.01.1985 and the said firm purchased the suit scheduled property by sale deed dated 11.09.1987. In the said Partnership Firm, the father of the plaintiff namely Mr.S.Namashivayam, his younger brother Mr.S.Ponnuvelu, father of the applicants and one Mr.Ambigapathy were the partners of the said firm. After the demise of the said S.Namashivayam, on 16.11.1990, his wife Mrs.N.Meera, the mother of the plaintiffs, was brought in as the partner from 11.12.1990. The other partner Mr.Ambigapathy retired from the partnership business on

30.12.1991 and the remaining two partners continued in the partnership business and it is an admitted fact that the said partnership firm got only two partners namely Mr.S.Ponnuvelu and Mrs.N.Meera. Further, there are claims in the plaint that there was a settlement between Mr.S.Ponnuvelu and Mrs.N.Meera and her daughters (Plaintiffs herein) and an agreement of family arrangement dated 02.04.2007 was entered and as per the said family arrangement Mr.S.Ponnuvelu agreed to pay Rs.75 lakhs as full and final settlement to release and relinquish their rights over the partnership business and its properties. Three post dated cheques were issued by Mr.S.Ponnuvelu an one of the cheques that was presented for payment was dishonoured on 24.09.2007 and the remaining two cheques were not presented, however no suit was filed for enforcement of family arrangement dated 02.02.2007 by M/s.N.Meera.

2.2. According to the plaintiffs, Mr.S.Ponnuvelu has not furnished statement of accounts of the partnership firm to the other partners and since the plaintiffs were minors, they could not question the illegal act of his uncle Mr.S.Ponnuvelu and then the plaintiff has given a police complaint against Mr.S.Ponnuvelu on 14.10.2010. The mother of the plaintiffs namely N.Meera died on 25.07.2016 and by the death of the plaintiff's mother, the partnership was dissolved as per Section 42 (c) of the Partnership Act, 1932. The said Ponnuvelu died interstate on 27.01.2023 and hence the family arrangement dated 02.04.2007 was not acted upon during the lifetime of Mr.S.Ponnuvelu.

2.3. Therefore, the defendants 1 to 3 cannot inherit the assets of the firm including the suit property solely until the affairs of the firm has been completely wound up under Section 53 of the Partnership Act, 1932. The said S.Ponnuvelu failed to settle the accounts and had given half share to the plaintiff as per Section 48 of the Partnership Act, 1932 and unless the partnership is wound up on the death of N.Meera on 25.07.2016, Mr.S.Ponnuvelu cannot claim as a sole proprietor of the firm and the defendants 1, 2 and 3 cannot inherit the property of the firm absolutely as its three properties and deal with the suit property as absolute owners. The plaintiffs came to know about the sale deed dated 11.09.2023 registered as document No.4109 of 2023 executed by the defendants in favour of the 4th defendant for the suit property as if the partnership firm was dissolved and converted as sole proprietorship in the name of S.Ponnuvelu.

2.4. According to the plaintiffs, the Partnership Firm cannot be dissolved on its own and it has to be dissolved in any of the contingencies as contemplated under Section 42 of the Partnership Act, 1932. After the demise of Mrs.N.Meera, the plaintiffs, as her legal heirs have inherited the shares of the Partnership Firm under the Hindu Succession Act, 1955. Therefore, they filed the present suit. Infact the suit is not maintainable for the following reasons:

(i) there is no cause of action for the plaintiffs to file the present suit.

(ii) the suit claim is barred by Section 44 of the Partnership Act

(iii) Barred by limitation

(iv) suffers from suppression of material facts;

(v) An abuse of process of law

(vi) Under valuation of the suit and court fee not paid.

2.5. Even as per the pleadings, the plaintiff's have admitted that their mother Mrs. N.Meera has entered into an agreement of family arrangement dated 02.04.2007 with Mr.S.Ponnuvelu and the same was filed as Doc.No.1. In that document, the plaintiffs are also signatories.

This document has been relied on by the plaintiffs for filing the suit. It is not the case of the plaintiffs that the said agreement was a fraudulent one. Having admitted the said Agreement of Family Arrangement dated 02.04.2007, assuming there is grievance on enforcement of the said agreement, the remedy available to them was to file a suit for specific performance of the said agreement within three year of the said agreement. Admittedly, neither the Meera, nor the plaintiffs filed any suit for specific performance, during the lifetime of N.Meera who died on 25.07.2016. Having failed to file a suit for specific performance, simply declaring themselves that the said agreement has not been acted upon and the present suit is maintainable.

2.6. As per Plaint Document No.1, the agreement dated 02.04.2007, it reveals that there was a mention about Dissolution of Partnership Firm on 01.04.2003 and a dissolution deed was executed between S.Ponnuvelu and N.Meera, accordingly the running of business of Sree Lakshmi Timber Mart and its properties were taken over by S.Ponnuvelu and N.Meera has been paid a sum of Rs.1,50,000/-. This is a categorical admission on the part of the plaintiffs. The said dissolution of firm on 01.04.2003 was suppressed by the plaintiffs in the plaint. It is also admitted fact in para(10) of the plaint that the partnership firm was converted into a sole proprietorship in the name of Ponnuvelu and once the conversion of the partnership firm into proprietorship has been admitted, the present suit is not maintainable.

2.7. Even according to the plaint, there were only two partners namely S.Ponnuvelu and N.Meera. The said Meera died on 25.07.2016, as per Section 42(c) of the Partnership Act, the firm automatically stands dissolved. While so, after the demise of Meera, the legal heirs of the deceased partner cannot file a suit for dissolution of partnership and there is absolutely no cause of action for them to seek for such a relief. Moreover, as per Section 44 of the Partnership Act, dissolution of a Partnership Firm as the same is barre by law. M/s. Sree Lakshmi Timber Mart is an unregistered firm and the same has not been added as a party and therefore, the suit itself is not maintainable under Section 69(3) of the Partnership Act. Even assuming that the firm continues even after the death of the Partner N.Meera, the plaintiffs as her legal heirs can only file a suit for rendition of accounts, that too within three years from the death of N.Meera who died on 25.07.2016, which they have not done and hence the present suit filed after 9 years from the death of N. Meera. Therefore, the suit is barred by law of limitation.

2.8. The proprietor business was not functioning for the past several years and there was no income from the said business and even the building in which he said business was functioning in a dilapidated conditions. After the demise of the father, the defendants (1 to 3) have sold the suit property by sale deed dated 11.09.2023 to the 4th defendant as they have right to do so and a mere execution of the sale deed will not give cause of action for the plaintiffs to file the present suit. Therefore, the plaint is liable to be rejected

3. The gist of the counter averments filed by the respondent plaintiffs are as follows:

The plaintiffs have filed the present Application for rejection of plaint on the ground that (i) there is no cause of action for the plaintiffs to file the present suit (ii) the suit claim is barred by section 44 of the

Partnership Act (iii) barred by limitation (iv) suffers from suppression of material facts (v) an abuse of process of law (vi) under valuation of the suit and court. Infact, N.Meera has entered into an agreement of Family arrangement dated 02.04.2007. The averments made in the affiadavit are all false. Infact, the performance of family arrangement was acted upon or not is a matter for evidence to be looked into by the Court during trial.

3.1. When the agreement dated 02.04.2007 was not acted upon and late N.Meera continue as partner of their partnership till her death on 25.07.2016, the question of specific performance of family agreement dated 02.04.2007 does not arise at all. The dissolution of partnership, firm and maintainability of the suit are all matter for evidence and it cannot be decided in application for rejection of plaint. On the death of the partner, the legal heirs are entitled to file, the suit is also a matter of evidence, since fraud is pleaded in the plaint and it has to be proved in the trial.

3.2. It is settled law that fraud vitiates all the subsequent acts and it can be questioned at any time before any Court of law and there is no question of limitation more, so question of limitation is mixed question of fact and law and the fact in respect of limitation to be proved during trail only. One of the partners Mrs.N.Meera died on 25.07.2016 and as per Section 42(c) of the Partnership Act, after her death, it does not exist, but even after the death of the other parter Mr.Ponnuvelu, his legal heirs defendants 1 to 3 herein representing the firm as may be joint proprietors executed a sale deed dated 11.09.2023 in favour of 4th defendant. Therefore, the prayer sought for dissolution of the firm M/s. Sree Lakhsmi Timber Mart under Section 42(c) of the Act and other relief are very well maintainable. Further, there is no ground made out under Order 7 Rule 11 (a) to (d) of Code of Civil Procedure to entertain the application for rejection of plaint. Therefore, the application is liable to be dismissed.

4. The learned counsel appearing for the appellant submitted that the suit is filed for the following relief (i) to dissolve the firm M/s. Sree Lakshmi Timber Mart and to declare that the plaintiffs are entitled to half share in the said Partnership Firm assets (ii) to declare the sale deed dated 11.09.2023, registered as document No.4109 of 2023, executed by us in favour of the 4th defendant as Null and Void, (iii) for

Permanent Injunction, restraining the 4th defendant from putting up new construction in the suit schedule property and (iv) permanent injunction restraining the 5th and 6th defendants from mutating the 4th defendant's name in revenue records pertaining to the suit property.

4.1. Even as per the plaint, the agreement of family arrangement was entered between the parties on 02.04.2007 and based on that agreement, Dissolution of Partnership Firm has taken place on 01.04.2003 and a dissolution deed was executed between S.Ponnuvelu and N.Meera. Accordingly the running of business of Sree Lakshmi Timber Mart and its properties were taken over by S.Ponnuvelu and N.Meera has been paid a sum of Rs.1,50,000/-. This is a categorical admission on the part of the plaintiffs. The said dissolution of firm on 01.04.2003 was suppressed by the plaintiffs in the plaint. It is also admitted fact in para(10) of the plaint that the partnership firm was converted as sole proprietorship in the name of Ponnuvelu and once the conversion of the partnership firm into proprietorship has been admitted, the present suit is not maintainable.

4.2. Even according to the plaint, there were only two partners namely S.Ponnuvelu and N.Meera. The said Meera died on 25.07.2016, as per Section 42(c) of the Partnership Act, the firm automatically stands dissolved. While so, after the demise of Meera, the legal heirs of the deceased partner cannot file a suit for dissolution of partnership and there is absolutely no cause of action for them to seek for such a relief. Moreover, as per Section 44 of the Partnership Act, dissolution of a Partnership Firm as the same is barred by law. M/s. Sree Lakshmi Timber Mart is an unregistered firm and the same has not been added as a party and therefore, the suit itself is not maintainable under Section 69(3) of the Partnership Act.

4.3. Even assuming that the firm continues even after the death of the Partner N.Meera, the plaintiffs as her legal heirs can only file a suit for rendition of accounts, that too within three years from the death of N.Meera who died on 25.07.2016, which they have not done and hence the present suit filed after 9 years from the death of N. Meera. Therefore, the suit is barred by law of limitation.

4.4. The proprietor business was not functioning for the past several years and there was no income from the said business and even the building in which he said business was functioning in a dilapidated conditions. After the demise of the father, the defendants (1 to 3) have sold the suit property by sale deed dated 11.09.2023 to the 4th defendant as they have right to do so and a mere execution of the sale deed will not give cause of action for the plaintiffs to file the present suit.

4.5. The learned counsel for the petitioner has relied on the following judgements:

(i) **S.Shivraj Reddy (Died) thr his Lrs and Another Vs. S.Raghuraj Reddy and Others** reported in **2024 SCC Online SC963**

(ii) M/s.Narasu's Coffee Company Vs. R.P.Sarathy & Others reported in **2014-3-L.W.419**

(iii) M.M.Valliammai Achi and others Vs. KN PL.V.Ramanathan Chettiar and Others reported in **1967 SCC Online Mad 248**

5. The learned counsel for the respondents submitted that the plaintiffs have filed the present rejection of plaint on the ground that (i) there is no cause of action for the plaintiffs to file the present suit (ii) the suit claim is barred by section 44 of the Partnership Act (iii) barred by limitation (iv) suffers from suppression of material facts (v) an abuse of process of law (vi) under valuation of the suit and court. Infact, N.Meera has entered into an agreement of Family arrangement dated 02.04.2007. The averments made in the affiadavit are all false. Infact, the performance of family arrangement was acted upon or not is a matter for evidence to be looked into by the Court during trial. When the agreement dated 02.04.2007 was not acted upon and late N.Meera continue as partner of their partnership till she died on 25.07.2016, the question of specific performance of family agreement dated 02.04.2007 does not arise at all.

5.1. The dissolution of partnership, firm and maintainability of the suit are all matter for evidence and it cannot be decided in application for rejection of plaint. On the death of the partner, the legal heirs are entitled to file, the suit is also a matter of evidence, since fraud is pleaded in the plaint and it has to be proved in the trial. It is settled law that fraud vitiates all the subsequent acts and it can be questioned at any time before any Court of law and there is no question of limitation more, so question of limitation is mixed question of fact and law and the fact in respect of limitation to be proved during trail only. One of the partners Mrs.N.Meera died on 25.07.2016 and as per Section 42(c) of the Partnership Act, after her death, it does not exist, but even after the death of the other parter Mr.Ponnuvelu, his legal heirs defendants 1 to 3 herein representing the firm as may be joint proprietors executed a sale deed dated 11.09.2023 in favour of 4th defendant. Therefore, the prayer sought for dissolution of the firm M/s. Sree Lakhsmi Timber Mart under Section 42(c) of the Act and other relief are very well maintainable. Therefore, the application is liable to be dismissed.

6.This Court heard both sides and perused the materials available on records.

The main suit has been filed by the respondents for the following relief : The plaintiffs have filed the present rejection of plaint on the ground that (i) there is no cause of action for the plaintiffs to file the present suit (ii) the suit claim is barred by section 44 of the Partnership Act (iii) barred by limitation (iv) suffers from suppression of material facts (v) an abuse of process of law (vi) under valuation of the suit and court. As per the plaint, it is admitted fact that the M/s.Sree Lakshmi Timber Mart, is an unregistered Partnership firm created by an unregistered Partnership deed dated 01.01.1985 and the said firm purchased the suit schedule property by sale deed dated 11.09.1987.

7. In the said Partnership Firm, the father of the plaintiff namely Mr.S.Namashivayam, his younger brother S.Ponnuveu and one Ambigapathy were partners of the said firm. After the demise of the said Mr.S.Namashivayam on 16.11.1990, his wife Mrs.Meera, the mother of the plaintiffs was brought in as the partner from 11.12.1990. One of the partner Mr.Ambikapathy retired from the partnership business on 30.12.1991 and thereafter the mother of the plaintiffs namely Meera and the father of the defendant Mr.S.Ponnuvelu were partners of the business.

8. While so, in the year 2007 ie., on 02.04.2007, mother of the plaintiffs and the father of the defendants entered into family arrangement

and as per the said family arrangement, Mr.S.Ponnuvelu agreed to pay Rs.75 lakhs as full and final settlement to release the relinquish his rights over the partnership business and its properties and accordingly had given three post dated cheques and when one of the cheque was presented for payment, the same was dishonoured on 24.09.2007 and the remaining two cheques were not presented and no legal steps were taken based on the family arrangement. In the meantime, the mother of the plaintiffs namely N.Meera died on 25.07.2016. The plaintiff's relied upon the Document No.1 and as per the Document No.1, the partnership firm itself has been dissolved on 01.04.2003 and no sui was filed during the lifetime of Mrs.Meera. After the demise of said Meera, the plaintiffs have filed the suit.

9. The cause of action, according to the plaintiffs, arose when the partnership firm was created on 01.01.1985 and the property was purchased on 11.09.1987. In the said partnership firm, the father of the plaintiff namely Mr.S.Namashivayam died on 16.11.1990 and the plaintiffs mother brought in as the partner from 11.12.1990 and other partner retired on 30.12.1991. In the family arrangement dated

02.04.2007, the plaintiff agreed to pay Rs.75 lakhs and after the death of Mrs. Meera, the sale deed executed by the legal heirs on 11.09.2023. It is admitted fact that Mrs.Meera died on 25.07.2016 and immediately after the demise, the plaintiffs have not filed any suit within the limitation period. The limitation period is three years. After the demise of the Meera, no suit has been filed within the limitation period and the present suit is filed after 9 years. It is true that the limitation involves a mixed question of law and fact. However, when the issue is purely one of law, the Court can reject the plaint if the suit is barred by limitation. In the case on hand, the plaintiffs are claiming share through Mrs.Meera and the she died on 25.07.2016. As no steps were taken within the prescribed period, the claim is barred by limitation.

10. Furthermore, immediately after demise of Mrs.Meera, the partnership firm stood dissolved automatically as per Section 42(C) of the Partnership Act. . Moreover, as per Section 44 of the Partnership Act, the dissolution of a Partnership Firm can only be sought for, by the existing partners and the legal heirs of the deceased partner cannot maintain the suit for dissolution of partnership firm as the same is barred

by law. Moreover, the plaintiffs have not added the partnership firm as one of the party in the suit and therefore, cause of action for the suit for dissolution of the partnership could not have arisen.

11. The first relief is the main relief and other relieves are consequential reliefs. Therefore, the suit is barred by limitation. On careful perusal of the judgements relied by the learned counsel for the petitioner, it is held in **S.Shivraj Reddy (Died) thr his Lrs and Another Vs. S.Raghuraj Reddy and Others** reported in **2024 SCC Online SC963 that** the mandate of Section 3 of the Limitation Act is that it is the duty of the Court to dismiss any suit instituted after the prescribed period of limitation irrespective of the fact that the limitation has not been set up as a defence. When the limitation is the pure question of law and from the pleadings itself it becomes apparent that a suit is barred by limitation, then of course, it is the duty of the Court to decide limitation at the outset even in the absence of a plea.

12. Further, it is held in **M/s.Narasu's Coffee Company Vs. R.P.Sarathy & Others** reported in **2014-3-L.W.419** that it is well settled

proposition of law that if it is not possible for any partner, to continue the partnership firm, he can seek dissolution of the firm and rendition of accounts.

13. Further, it is held in **M.M.Valliammai Achi and others Vs. KN PL.V.Ramanathan Chettiar and Others** reported in **1967 SCC Online Mad 248** that A suit brought on the death of a partner by his legal representatives for accounts of the partnership business since such partner's death, is nor governed by Article 106 of the Limitation Act, inasmuch as the right of the legal representatives is 106, Limitation Act, but is a right accruing to him by the subsequent dealings with the assets belonging to the deceased partner.

31. In the case on hand also, the mother of the plaintiffs namely N.Meera died on 25.07.2016 and thereafter the plaintiffs have not filed any suit within three years as per Section 106 of limitation Act. The partnership firm was already dissolved and there existed an agreement between the parties. Even after the demise of the plaintiff's mother Mrs.Meera, the plaintiffs have not taken any steps to file the suit within

the prescribed period of limitation. Hence, the suit is not maintainable and the same is liable to be rejected.

32.Accordingly, the application is allowed and the plaint in C.S.No.29 of 2025 is rejected.

26.09.2025

Sma

P.DHANABAL.,J

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in
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26.09.2025
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