



CRP.No.2757 of 2025

THE HIGH COURT OF JUDICATURE AT MADRAS

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Order reserved on : 19.08.2025

Order pronounced on : 04.09.2025

CORAM

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

CRP.No.2757 of 2025
& CMP.No.15622 of 2025

S.Muralidharan

..Petitioner

Vs.

1.R.Balakulandaivelu
2.B.Krishnaveni
3.B.Anuprabha
4.P.Damodharasamy
5.K.Sivashanmugam
6.The Sub-Registrar,
Office of the Sub-Registrar,
Mettupalayam,
No.271, Coimbatore Main Road,
Dasampalayam, Mettupalayam,
Coimbatore District – 641 301.

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to strike off the plaint in O.S.No.575 of 2024 on the file of the I Additional District Court, Coimbatore on the ground that the same is an abuse of process of law.

For Petitioner : Dr.C.Ravichandran



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For Respondents : Mr.R.Asokan for RR 1 to 3
Mr.N.Muthuvel Govt. Advocate (CS) for R6
No appearance for RR4 and 5

ORDER

The revision has been filed to strike off the plaint in O.S.No.575 of 2024 on the file of the I Additional District Court, Coimbatore.

2.I have heard Dr.C.Ravichandran, learned counsel for the revision petitioner, Mr.R.Asokan, learned counsel for the respondents 1 to 3 and Mr.N.Muthuvel, learned Government Advocate for the 6th respondent.

3.Dr.C.Ravichandran, learned counsel for the revision petitioner would state that the plaint is a clear attempt at re-litigation, abuse of process and an illusory cause of action projected by clever drafting. He would therefore state that the revision petitioner/1st defendant is entitled to seek striking of the plaint on all the above grounds. He would also take me through the plaint averments and contend that in a suit for specific performance, after issuing a pre-suit notice, the suit has been filed. He would also state that summons were served on Subbathal, mother of the 1st respondent/1st plaintiff and she remained ex-parte. Subsequently, an application filed by the said Subbathal to set aside the



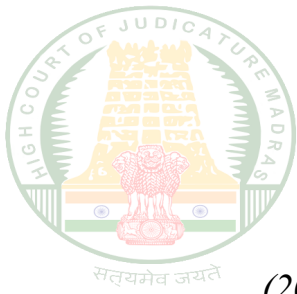
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ex-parte order in I.A.No.710 of 2015 has also been dismissed as early as on

11.02.2016 and subsequently, the suit for specific performance was decreed on 19.02.2016. He would further contend that subsequently, execution petition in E.P.No.12 of 2016 was filed and the Sale Deed was also executed in favour of the plaintiff. Another E.P.No.253 of 2021 was filed for recovering possession and in the said EP, the mother of the 1st respondent filed E.A.No.2 of 2022 to set aside the ex-parte decree in the suit for specific performance. However, the same was dismissed way back on 03.03.2023 and after lapse of seven months, recording delivery of possession, the EP was closed.

4.The learned counsel for the petitioner would therefore state that when the mother of the 1st respondent had participated in the proceedings and exhausted all her remedies and they had all become final, the present suit filed by the legal heirs of the defendant in O.S.No.546 of 2014 was clearly an abuse of process of law and re-litigation an issue that had already attained finality. The learned counsel for the petitioner has placed reliance on the following decisions:

- 1. Correspondent, RBANMS Educational Institution Vs. B.Gunashekar and Others (2025 (3) CTC 619).*
- 2. A.V.S.Balasubramanian Vs. Kolanji @ C.Chandramohan and Another (2025 (4) CTC 20).*



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3.N.A.Chinnasamy and another Vs. S.Vellingirinathan
(2013 (6) CTC 809).

4.B.Revathy Vs. Hariraj and Others (2025 (3) CTC 705).

5.R.M.Subbiah Vs. S.Ramakrishnan and Others
(Manu/TN/4910/2011).

6.Neelam Jain Vs. M.Balachandar and Others (CDJ 2019
MHC 5682).

7.T.Arivanandam Vs. T.V.Satyapal and Another ((1977) 4
SCC 467).

8.Zarina Siddiqui Vs. A.Ramalingam @ R.Amarnathan
((2015) 1 SCC 705).

9.Raj Narain Sarin (Dead) through LRs and Others Vs.
Laxmi Devi and Others ((2002) 10 SCC 501).

10.Ramiah Asari Vs. Kurshad Begaum and Another (1999
(I) CTC 600).

11.B.Rajamani and Others Vs. N.Gunasekaran and
Another (2023 (5) CTC 571).

12.J.Muthurajan and Another Vs. S.Vaikundarajan and
Others (2025 (2) CTC 573).

13.C.E.Sulochana and Others Vs. C.E.Sathyannarayana
Reddy ((2008) 3 MLJ 371).

5.Per contra, Mr.R.Asokan, learned counsel for the plaintiffs/respondents

1 to 3 would contend that fraud has been played upon the Court and the 1st plaintiff's mother, Subbathal, never appeared in the suit. The applications filed to set aside the ex-parte order as well as to set aside the ex-parte decree were not filed by her and their mother has been impersonated and her valuable property has been snatched away. He would therefore state that the said suit filed by the legal representatives, post demise of their mother, cannot be termed as re-litigation at all and there is no question of abuse, since the present



plaintiffs attack the genuineness and validity of the decree passed in the suit for specific performance, on the ground of fraud.

6.The learned counsel for the plaintiffs/respondents 1 to 3 would therefore state that the plaintiffs cannot seek striking off the plaint, that too, invoking the extraordinary power under Article 227 of Constitution of India. He would therefore pray for dismissal of the revision. The learned counsel for the respondents 1 to 3 would place reliance on the following decisions:

1.Indian Bank Vs. Satyam Fibres (India) Private Limited ((1996) 5 SCC 550).

2.Ram Prakash Agarwal and Another Vs. Gopi Krishnan and Others ((2013) 11 SCC 296).

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

8.The case of the revision petitioner is that he had entered into a registered agreement of sale on 30.07.2013 with Subbathal, the mother of the 1st respondent, complaining that the said Subbathal did not come forward to honour the sale agreement. The revision petitioner had issued a notice on 19.11.2013 and a second notice, prior to the filing of the suit, on 05.09.2014. It is the specific case of the revision petitioner that the said pre-suit notice as well



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as the earlier notice dated 19.11.2013 were served on the said Subbathal. As

there is no reply to either of the notices, the petitioner proceeded to file a suit for specific performance. On 26.03.2015, the said Subbathal was served with summons in the suit. The certified copy of the summons received by Subbathal on 26.03.2015 is also annexed in the typed set of papers in the revision.

9. On 30.04.2015, in view of the said Subbathal not entering appearance, the Trial Court has set her ex-parte and the matter was posted for ex-parte evidence. However, on 06.10.2015, the said Subbathal filed I.A.No.710 of 2015 for setting aside the ex-parte order. On 11.02.2016, the said application came to be dismissed by the Trial Court. In fact, I find that the petition was allowed in order to give an opportunity to the said Subbthal, on payment of costs of Rs.500/- on or before 03.02.2016. However, on 04.02.2016, the assigned hearing date for compliance of the condition order, the Trial Court, finding that costs had not been paid, dismissed the set aside application and proceeded to decree the suit on 19.02.2016. Thereafter, the revision petitioner has filed E.P.No.12 of 2016 for execution of Sale Deed and the Sale Deed also came to be executed in favour of the revision petitioner by the court in Doc.No.1594 of 2015. Subsequently, second EP.No.253 of 2021 was filed for taking possession. In the said EP, Subbathal, the mother of the 1st respondent filed E.A.No.2 of



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2022, seeking to set aside the ex-parte order in the EP proceedings. The said application was resisted by the revision petitioner, contending that the Sale Deed has already been executed in favour of the revision petitioner and the suit for specific performance has been decreed and the same has become final and the present execution petition was only a consequential petition for taking delivery.

10.On enquiry, the said E.A.No.2 of 2022 filed by the mother, Subbathal came to be dismissed on 03.03.2023 and admittedly, the execution petition was subsequently terminated, recording delivery in favour of the revision petitioner. After all these, the said Subbathal died on 03.11.2023 and in April 2024, the present suit in O.S.No.575 of 2024 has been filed by the son of Subbathal, her daughter-in-law and granddaughter of said Subbathal, that is daughter of the plaintiffs 1 and 2.

11.On a reading of the plaint, it is clear that the plaintiffs claim only under said Subbathal, who was the absolute owner of the suit property, in pursuance of the gift settlement deed dated 07.05.1981 in her favour. It is contended by the plaintiffs that Subbathal had only borrowed money and was under the impression that a mortgage deed for the said borrowing was being



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executed and the revision petitioner has mislead and cheated her into executing an agreement of sale.

12. Even in the plaint, the plaintiffs admit that Subbathal received notices, but claim that she merely approached the revision petitioner, seeking clarification and that the revision petitioner assured Subbathal that he will not take any action, if the loan amount was repaid. It is also contended that in furtherance of the notices and request of Subbathal, a sum of Rs.4,50,000/- was paid by the 2nd plaintiff to the revision petitioner. Further, even in the plaint, it is admitted that the bank account, to which the amount of Rs.4,50,000/-, was transferred was in the name of a limited Company, namely Sanjay India Agro Solutions Private Limited. It is also claimed that a further sum of Rs.5,00,000/- was paid by the 2nd plaintiff on 27.03.2015 to the said Company in full and final settlement of the financial assistance availed of by Subbatha.

13. Therefore, even according to the plaintiffs, there is no payment made to the revision petitioner, but only to a different legal entity altogether. Curiously, the plaintiffs 1 and 2 have lodged a complaint to the Inspector of Police, Sirumugai Police Station on 31.01.2020, where she complains that the revision petitioner has obtained an ex-parte decree and is attempting to interfere



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with her possession. In the said complaint, it is also mentioned that an application was filed to set aside the ex-parte decree. Therefore, it is clear that the plaintiffs were fully aware of the ex-parte decree passed against Subbathal even in January 2020. Moreover, to contend that Subbathal never entered appearance in the suit and did not file applications to set aside the ex-parte decree are all not even mentioned in the said police complaint, which was the earliest instance, when the plaintiffs have themselves admitted to have knowledge of the ex-parte decree, even assuming they were not aware of the same at any earlier point of time.

14.It is not the case of the plaintiffs that Subbathal did not receive the pre-suit notices or suit summons in the suit for specific performance. It is only their case that Subbathal's signature was forged in the vakalat and playing fraud and misrepresentation, a decree was obtained. There is absolutely no explanation as to why Subbathal chose to sleep over the matter, despite having received two pre-suit notices as well as suit summons. This only shows that Subbathal was fully aware of the proceedings and she alone attempted to set aside the ex-aprte order initially and thereafter, also filed an application in the execution proceedings to set aside the order, setting her ex-parte in the execution petition.

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15.It is now contended by the plaintiffs that Subbathal did not file any of these applications. When the plaintiffs themselves had knowledge of the ex-parte decree, even according to them, in January 2020, when they lodged the police complaint, they also did not think it fit to take any proceedings and in fact, on the said date, Subbathal herself was alive. Therefore, when the earlier attempts to set aside the ex-parte order were unsuccessful and through Court process, the revision petitioner already obtained Sale Deed as well as possession, it is not open to the plaintiffs to file a fresh suit, alleging fraud has been played on Subbathal and the plaintiffs.

16.Even in the application filed in E.A.No.2 of 2022, Subbathal has only stated that upon receipt of notice in the EP, in view of her age, she was not in a position to meet her counsel and enter appearance by filing vakalat and also counter on 12.04.2022. It is not even the case of the said Subbathal that fraud has been played by the revision petitioner, by taking advantage of a loan availed of by Subbathal and by duping her into executing an agreement of sale. Even in I.A.No.710 of 2015, which was filed to set aside the ex-parte order, Subbathal has only stated that she was not keeping good health and was taking Ayurvedic treatment and under such circumstances, the ex-parte order dated 30.04.2015 was sought to be set aside.

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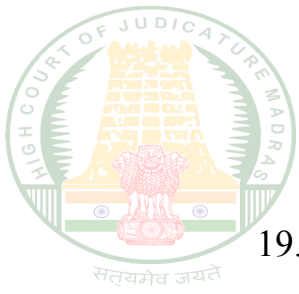


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17. According to the plaintiffs, if really fraud had been played by the revision petitioner, by acts of forgery and impersonation, then Subbathal being served with notice in the execution petition on 27.01.2022 and also the police complaint lodged by the plaintiffs 1 and 2 on 31.01.2020, clearly go to show that the case projected by the plaintiffs 1 and 2 appears to be fallacious and invented. Delay and total inaction on the part of not only Subbathal, but also the plaintiffs 1 and 2 clearly does not go well with the case projected by the plaintiffs, as if their valuable property has been knocked off by the revision petitioner.

18. Coming to the decisions that have been relied on by the learned counsel for the revision petitioner, in *Correspondent, RBANMS Educational Institution's case*, the Hon'ble Supreme Court held that any attempt of the plaintiff to disclose cause of action through clever drafting must fail and allowing the suit which is filed by persons who have no locus would only amount to waste of judicial time and resources, besides encouraging speculative and extortionate litigation.

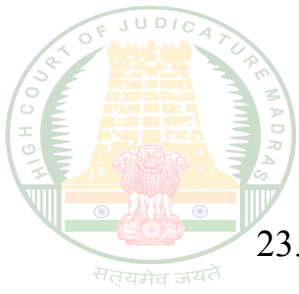


19.I had an occasion in *A.V.S.Balasubramanian's case*, where I invoked power under Article 227 of Constitution of India and struck off the plaint, finding it to be a clear attempt in re-litigation and also abuse of process of law.

20.In *B.Revathy's case*, this court held that if it shown that the plaint is an abuse of process of Court, then the High Court has jurisdiction under Article 227 of constitution of India to nip such suits in the bud.

21.In *R.M.Subbiah's case*, this Court held that when the matter attained finality and the respondent had become the owner of the entire property, it would not be proper to drive the respondent to another round of litigation and exercised power under Article 227 of Constitution of India and struck off the plaints, finding that person who comes to Court with unclean hands and re-agitates the matter over and over again, cannot be permitted by the Courts.

22.In *Neelam Jain's case*, this Court held that though plea of fraud and collusion have been raised in the suit, this Court finding that the plaintiff has slept over the matter and belatedly challenged the proceedings proceeded to reject the plaint.



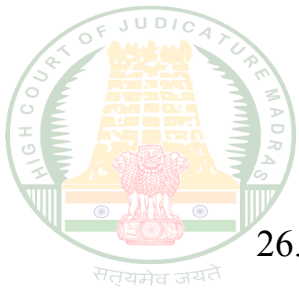
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23.In *T.Arivanandam's case*, the Hon'ble Supreme Court held that if the suit is a flagrant misuse of the mercies of the law in receiving complaints, the Trial Court will have to take deterrent action, if it is satisfied that the litigation was inspired by vexatious motives and altogether groundless. The Hon'ble Supreme Court further held that if by clever drafting the plaintiff had created an illusion of a cause of action, it should be nipped in the bud at the first hearing itself and that irresponsible law suits should be shot down at the earliest.

24.In *Raj Narain Sarin's case*, the Hon'ble Supreme Court held that when the litigation was utterly vexatious and abuse of process of Court, then the plaint has to be necessarily rejected.

25.I am not referring to the other decisions that have been relied on by the learned counsel for the petitioners, since they arose out of orders passed under Order VII Rule 11 of CPC, where the defendant had approached the Trial Court for rejection of the plaint and ultimately, the Supreme Court or High Courts, agreeing with the contentions of the respective defendants, rejected the plaint. However, in the present case, I am concerned with a prayer for striking off the plaint and not rejecting the plaint.



26. Coming to the decisions that have been relied on by the learned counsel for the respondent 1 to 3, in *Indian Bank's case*, the Hon'ble Supreme Court held that when fraud is committed, it amounts to abuse of process and any decree obtained by committing fraud before the Court is challenged, the Court is obliged to decide the question regarding fraud by recording evidence before proceeding to recall the decree or confirming the same.

27. In *Ram Prakash Agarwal's case*, the Hon'ble Supreme Court, following the ratio laid down in *Indian Bank's case*, also held that in the event of a party having obtained a decree or order by playing fraud upon the Court, then the Court may be justified and rectified such mistake, either by recalling the order or by passing any other appropriate order.

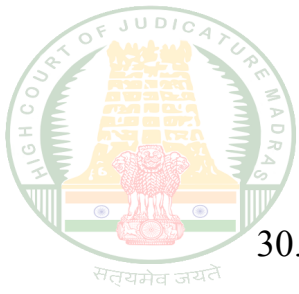
28. Applying the ratio in the above cases to the facts of the present case, I find that there is no explanation on the side of the plaintiffs as to why Subbathal did not take any steps to enter appearance in the suit for specific performance, despite having been served with summons. The silence on the part of Subbathal remains surprisingly unexplained, even in the present plaint, where receipt of pre-suit notices by Subbathal is also admitted and even applications were filed for setting aside the *ex parte* order initially and thereafter *ex-parte* order passed in the execution petition as well.



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29. It is now contended for the first time in the plaint, that too, by the legal representatives that Subbathal did not enter appearance in the suit or in the execution petition, but fraud has been played upon them. However, even according to the plaintiffs, they were aware of the ex-parte decree as early as in January 2020, when a police complaint was lodged by the plaintiffs 1 and 2. There is a clear mention that steps are being taken to set aside the ex-parte decree. Even at that point of time, Subbathal herself was alive. Therefore, the silence on the part of said Subbathal and the plaintiffs remains totally unexplained. Long after the Court executed Sale Deed in favour of the revision petitioner and possession was also delivered to the revision petitioner and all these also happening only during the lifetime of Subbathal herself, no steps were taken by Subbathal, challenging any of the proceedings. However, on the demise of Subbathal, that too, after lapse of six months, for the first time, fraud is being alleged and the suit has been filed, challenging the ex-parte decree as well as the Sale Deed executed in favour of the revision petitioner. When such serious allegations of fraud, impersonation and forgery are alleged, it is not believable that the plaintiffs who had knowledge even in 2020, slept over the matter and came forward with the present suit only on 02.04.2024.



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30. In view of the above, the inaction and silence on the part of the plaintiffs and even earlier by Subbathal, do not justify their allegations of forgery, impersonation and fraud being played upon Subbathal to knock off her valuable property. No prudent person, who has been deprived of valuable property, by alleged acts of forgery and impersonation, would remain quite for years together, despite being served with summons in the suit and also having knowledge of the subsequent ex-parte decree passed on 19.02.2016, even in January 2020. Therefore, I find force in the submissions of the learned counsel for the petitioner that the present suit is nothing but an attempt at re-litigation of issues that have already attained finality. It is a clear abuse of process and the plaint itself is a creation of clever drafting, in order to give life to proceedings that have already attained finality.

31. It is a case where the plaintiffs cannot be permitted to frustrate the earlier proceedings that have attained finality, especially when the decree has also been executed. The present suit is therefore clearly one, which is liable to be struck off under Article 227 of Constitution of India.

32. In fine, the Civil Revision Petition is allowed and the plaint in O.S.No.575 of 2024 on the file of the I Additional District Court, Coimbatore,

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is struck off file. There shall be no order as to costs. Connected Civil

WEB COPY Miscellaneous Petition is closed.

04.09.2025

Speaking/Non-speaking order

Index : Yes/No

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To

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2.The Sub-Registrar,
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P.B.BALAJI.J.

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Pre-delivery order made in
CRP.No.2757 of 2025
& CMP.No.15622 of 2025

04.09.2025



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WEB COPY **P.B.BALAJI.,J**

Today the matter has been taken up under the caption for “Being Mentioned”.

2. The above revision was disposed of on 04.09.2025.

3. Learned counsel for the petitioner brought to the attention of this Court that the prayer sought for in the civil revision petition was to strike off the plaint in O.S.No.575 of 2024 on the file of I Additional District Court, Coimbatore. However, due to typographical error in the entire case bundle, the Court is wrongly mentioned as I Additional District Court, Coimbatore, whereas, the suit is pending on the file of V Additional District Court, Coimbatore.

4. In view of the said submission, Registry is directed to make the following correction in the order dated 04.09.2025:

“wherever I Additional District Court, Coimbatore is mentioned in the order dated 04.09.2025, the same shall be corrected as V Additional District Court, Coimbatore”.

Registry is directed to issue fresh copy.

19.09.2025

sr

Speaking/Non-speaking order

Index : Yes/No

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P.B.BALAJI.,J

SR

To

1.The V Additional District Court, Coimbatore.

2.The Sub-Registrar,
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