



CRP. No.1774 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on:15.07.2025

Pronounced on:29.08.2025

CORAM

THE HONOURABLE MR.JUSTICE P.B.BALAJI

**CRP. No.1774 of 2017
and CMP. No.8330 & 8331 of 2017**

N.Narayanamurthy

Petitioner

Vs

1.G.Padma
2.S.Loganathan
3.K.Gajalakshmi
4.P.Mythili
5.Anusha

Respondents

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to struck off the suit in O.S. No.112 of 2017 from the file of the District Munsif Court, Ambattur.

For Petitioners : Mr.V.Ayyapparaja

For Respondents : Mr.S.Mukunth,
Senior Counsel for
Mr.M.V.Kesavan, for R1 & R2
Mr.S.Venkatesh for R3 & R4
Mr.R.Murali for R5



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ORDER

WEB COPY The revision petitioner is the defendant who has approached this Court seeking relief under Article 227 of the Constitution of India, to strike of the plaint in O.S. No.112 of 2017, on the ground that it is an abuse of process of law.

2. I have heard Mr.V.Ayyapparaja, learned counsel for the Revision Petitioner and Mr.S.Mukund, learned Senior Counsel appearing for Mr.M.V.Kesavan, learned counsel for the respondents 1 and 2, Mr.S.Venkatesh, learned counsel for the respondents 3 and 4, Mr.R.Murali, learned counsel for the fifth respondent.

3.The learned counsel for the petitioner would primarily contend that the suit is a gross abuse of process and even though the power under Article 227 of the Constitution of India is to be sparingly exercised, the learned counsel for the petitioner would contend that this case is one which would qualify to be falling within the said exceptional category of suits where interference is absolutely necessary as the attempt made by the plaintiffs is a sheer and gross abuse of process of law. The suit has



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been filed for the relief of a bare permanent injunction to restrain the defendants from in any manner interfering with the peaceful possession and enjoyment of the plaintiffs, except by due process of law, either by demolishing, damaging the existing building or interfering by any other method.

4. The learned counsel for the revision petitioner would state that the plaintiffs claimed that the suit property originally belonged to their grandfather, late Venugopal Naidu who had purchased the said agricultural lands situate at S.No.170, Nolambur Village, formerly Ramapuram Village, under registered sale deed dated 20.05.1930 from Lingappa Naidu for valuable consideration. It is also contended that at the said point of time, the mortgage that was availed of by the vendor Lingappa Naidu was repaid and settled by the grandfather of the plaintiffs, late Venugopal Naidu, even at the time of purchase. The further claim of the plaintiffs is that after purchase, the said Venugopal Naidu was in absolute possession and enjoyment and the property was inherited by his wife Kamalammal and daughter Kannammal, who were in joint possession after the demise of Venugopal Naidu. The plaintiffs'



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grandmother Kamalammal, died in 1992 and their mother Kannammal, died in the year 2007 and thereafter, the plaintiffs have been in absolute possession of the suit property.

5. It is also the case of the plaintiffs that the plaintiffs have executed a power of attorney on 03.10.2008, in and by registered document in favour of one Mr.Gopinath, which was subsequently, cancelled on 20.10.2010. Even in the plaint it is alleged that the defendants' father Nandagopal is the plaintiffs' neighbour, having purchased the adjoining land under sale deed dated 07.04.1955. However by purchasing a non existing 59 cents, without land being available, or right and title being vested on the vendor, larger extent of 7.93 acres was purchased as against 7.34 acres and in respect of the larger extent, defendants' father Nandagopal, had executed a Will which was also probated before this Court in O.P. No.764 of 2024. The plaintiffs contend that the said Probate is not binding on the plaintiffs and since the defendants have fraudulently proceeded to obtain patta as well, an attempt was made to revoke the probate granted by taking out an Application on 07.04.2005. It is contended in the plaint that the said



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Application is pending before the Hon'ble High Court and in view of the disturbance caused by the defendants to the enjoyment of the property at the hands of the plaintiffs, the suit has been filed for relief of permanent injunction.

6. The learned counsel for the peititoners would invite my attention to the schedule of property which mentions the property to be situate in S.No.170, Nolambur Village formerly, Ramapuram village. The learned counsel for the revision petitioner would state that what was purchased by the defendants' father under the registered sale deed was the property in Porur and not Nolambur and since the very same S.No.170, has been mentioned and taking advantage of the same, the plaintiffs are attempting to stake claim to an imaginary and unavailable right.

7. He would further state that the plaintiffs have suppressed the factum of their Application for revocation of a probate having been dismissed on 06.01.2016 and by stating in the plaint that the said Application for revocation was pending, especially when the suit was filed only in April 2017. The learned counsel for the revision petitioner



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would state that the plaintiffs have committed perjury and fraud on Court. He would also state that the suit for bare injunction is also not maintainable and therefore, the Application for rejection of the plaint ought to have been favourably considered and the plaint should have been rejected.

8. The leaned counsel for the revision petitioner places reliance on the decision of this Court in support of his contentions (i) *T.Arivandandam Vs. T.V.Satyapal and Another*, reported in (1977) 4 SCC 467; and *B.Revathy Vs. Hariraj and others*, reported in 2025 (3) CTC 705.

9. Per contra, Mr.S.Mukunth, learned Senior Counsel would invite my attention to the plaint averments where the plaintiffs themselves admit that the defendant is their neighbour and there is an allegation of encroachment into the property belonging to the plaintiffs. The learned Senior Counsel would further state that the revision petitioner ought to show that any of the limbs under Order VII Rule 11 of CPC, are available to the contesting defendant, in order to enable him to seek rejection of



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the plaint. He would also contend that the additional documents that have been relied on by way of the typed set of papers, in order to show that the property has been plotted out and registration under RERA has also been obtained and a gift deed to the local body, gifting common areas has also been executed are of no avail and cannot be the basis for the decision in an Application seeking to strike off the plaint.

10. The learned Senior Counsel would also therefore state that the remedy available to the revision petitioner is only to approach the Trial Court and seek for rejection of the plaint under Order VII Rule 11 CPC and the revision petitioner cannot rely upon additional documents to contend that the property has been laid out.

11. The learned Senior Counsel would also place reliance on the decision in *K. Valarmathi and others Vs. Kumaresan*, reported in 2025 *SCC Online SC 985*, where the Hon'ble Supreme Court has held that power available to the High Court under Article 227 of the Constitution of India are only supervisory in nature and the same cannot be exercised to reject the plaint. The learned Senior Counsel would also state that the



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pleadings that have been made available to the Court, by way of the
plaint can only be tested after the parties are called upon to lead oral and
documentary evidence and being issues of fact, no case is made out for
striking off the plaint under Article 227 of the Constitution of India.

12. I have carefully considered the submissions advanced by the
learned counsel for the petitioner and the learned Senior Counsel
Mr.S.Mukunth, appearing for the respondents 1 and 2/plaintiffs.

13. The suit is admittedly for only a permanent injunction to
restrain the defendants from interfering with the alleged possession of the
plaintiffs in and over the suit property. The suit property as already seen
is lands in S.No.170/Nolambur, formerly in Ramapuram Village
measuring 3.55 acres and the boundaries that are mentioned in the
schedule of the property is also stated to be in terms of the 1930 sale
deed executed by Lingappa Naidu to Venugopal Naidu, under whom the
plaintiffs claim right, title and interest over the suit property.

14. On a perusal of the sale deed dated 20.05.1930, it is seen that



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the property that has been subject matter of conveyance under the said sale deed is only lands in Ramapuram Village, Saidapet Taluk, Chengalpet District. The Survey Number mentioned is however S.No.170 and the extent of 3.55 acres. Insofar as the sale deed dated 07.04.1955 under which, Nandagopal, the father of the revision petitioner has purchased a property, it is in respect of lands situate in Nolambur village comprising of various Survey Numbers including Survey Number in S.No.170/1. Patta has also been mutated by the Tahsildar in Patta No.82, Nolambur Village, in favour of the father of the revision petitioner and revenue records also stands mutated in his name. Moreover, the Will of the Mr.Nandagopal, father of the revision petitioner was also duly probated before this Court prayer and probate was granted in favour of the revision petitioner in OP. No.764 of 2004.

15. Admittedly, an attempt was made to seek revocation of the said grant by the plaintiffs in A.No.1762 of 2004, but however, the said Application was dismissed on 06.01.2016, for non prosecution. It appears that no further steps were taken by the plaintiffs to restore the said Application. However, though the present suit has been filed in



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2017, the plaintiffs have chosen to falsely plead that their Application for revocation is pending, without disclosing the fact that the said Application was dismissed even on 06.01.2016. Along with the CRP, documents are also enclosed to evidence the fact that the revision petitioner, subsequent to probate granted in her favour has formed a layout, gifted common areas in compliance with the requirement for layout approval and after obtaining approval, plots have also been sold to various third parties. Though there is no disclosure about these subsequent events post grant of probate by this Court on the original side, it is admitted even in the plaint by a clear indication in the plaint by that the plaintiffs were aware of the claim of title to the plaintiffs' property alleging that there was a fraudulent Will and it was also probated and patta was also mutated in the names of the defendants.

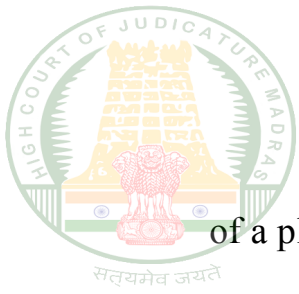
16. Whiles, the plaintiffs have not chosen to file a suit for declaration and have merely sought for relief of permanent injunction under Section 41(h) of the Specific Relief Act, 1963 and there is a bar for the plaintiffs to seek for injunction when other reliefs are necessarily to be sought for. Further the plaintiffs have also not come to Court with



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clean hands and they have suppressed material facts and circumstances well within their knowledge, especially their Application for revocation being dismissed even in 2016, which is not only suppressed but contended falsely that the said Application is pending before the High Court.

17. The learned Senior Counsel has placed reliance on the decision of the Hon'ble Supreme Court in *K.Valarmathi's* case, (referred herein supra). The said decision arose from our High Court where the Hon'ble Supreme Court held that power under Article 227 being supervisory, it cannot be invoked to usurp the original jurisdiction of the Court which it seeks to supervise and to supplant a statutory legal remedy under the Civil Procedure Code, 1908. However on facts of the said case, it is seen that a right to contend that the suit was barred under law was available with the plaintiffs to be raised in an Application under Order VII Rule 11 CPC which if accepted, would amounts to a deemed decree and therefore, the Hon'ble Supreme Court held that the supervisory jurisdiction of the High Court under Article 227 of the Constitution of India should not be entertained to invoke the reject the plaint. Rejection



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of a plaint is entirely different from striking off the plaint as one being an abuse of process of law.

18. The Hon'ble Supreme Court, right from *T.Arivandandam's* case (referred herein supra) and *K.K.Modi Vs K.N. Modi and others*, reported in (1998) 3 SCC 573, has clearly held that this Court should not be a mere spectator when it is brought to the notice of this Court, that the suit itself is an abuse of process of law and the Hon'ble Supreme Court has held that such vexatious claims should be nipped in bud and bogus litigation should be shot down at the earliest.

19. In *B.Revathy's* case, (referred herein supra), this Court held that pushing the parties to trial in cases where the suit itself is an abuse of process of law would amount to harassment of the parties and if the suit is found to be an abuse of process and bereft of any cause of action, then there is no necessity to retain the suit on file, as it would only amount to the Court giving a premium to dishonest litigant. Therefore, this Court should draw a distinction between exercising power to reject the plaint and striking off a plaint, on the ground that it is abuse of process of law.



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20. Here the specific grounds that are raised in the plaint are only

that the suit is a clear abuse of process of law in respect of a totally different village, lands have been purchased under 1930 sale deed and based on the said sale deed, the plaintiffs are now attempting to injunct the defendants who are admittedly claiming under the subsequent registered sale deed which pertains to a totally different extent, situate in an entirely different village altogether.

21. Further the plaintiffs have also wilfully suppressed the dismissal of their Application of revocation of a probate under Section 263 Indian Succession Act, 1925 and have not come to Court with clean hands. Further, in the absence of any other substantive relief for declaration as well, the relief of permanent injunction alone can never be granted in favour of the plaintiffs on the basis of the allegations made in the plaint. Therefore, I find that the suit is sheer abuse of process of law and does not stand the scrutiny of law and there is no purpose in calling upon the parties to undergo way of trial and also waste valuable judicial time. For all the above reasons, I am inclined to strike off the plaint.



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22. In fine, this Civil Revision Petition is allowed. Consequently,,

the plaint in O.S. No.112 of 2017 from the file of the District Munsif

Court, Ambattur is hereby struck off. Connected Miscellaneous Petition

are also closed. No costs.

29.08.2025

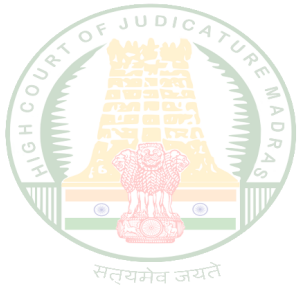
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To:

The District Munsif, Ambattur



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P.B.BALAJI, J.,

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Pre-delivery order in
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