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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 09.10.2026

Orders pronounced on : 27.10.2026

CORAM:

THE HON'BLE MR.JUSTICE R.RAJESH VIVEKANANTHAN

CRP No. 4322 of 2023

CNR: {HCMA011252532023}

and

C.M.P.No.26307 of 2023

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1. S.Lakshmi Ammal
2. A. Sundara Ammal
3. S. Saraswathi

..Petitioners

Vs.

1. K.Loganathan
2. Harikrishnan
3. L. Eswari

..Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the Fair order and Decretal order dated 19.12.2022 made in IA.No.6/2022 in OS.No.88/2022 on the file of the Additional District Munsif Court, Kanchipuram.

For Petitioner(s): Mr.T.Sathiyamoorthy

For Respondent(s): Mr.S.L.Sudarsanam

ORDER

This Civil Revision Petition is filed by the plaintiffs in O.S.No.88 of 2022, on the file of the Additional District Munsif Court, Kancheepuram,

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against the fair and decretal order dated 19.12.2022 made in I.A.No.6 of 2022 in O.S.No.88 of 2022.

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2. The revision petitioners/plaintiffs have filed the said suit, stating that, originally, the property in Enathur Village, vested with Mr.C.V.Kanniah under the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948. The said property was auctioned by the said Mr.C.V.Kanniah in favour of the brother of Laaate R.Panchachara Mudaliar/father of the plaintiff on 01.01.1936. During the settlement proceedings, the suit property had been wrongly classified as tank and thrashing floor poramboke. The plaintiffs' father Late R.Panchakshara Mudaliar and family, have been in continuous possession for more than 60 years, but without considering the same, the Government issued B-Memo to their father and hence, the plaintiffs have filed O.S.No39 of 1985 on the file of District Munsif Court, Kancheepuram, against the Government of Tamil Nadu, represented by the District Collector of Kancheepuram.

3. The said suit in O.S.No.39 of 1985 was decreed without costs on 07.11.1991 in favour of Panchachara Mudaliar and as against the said decree, the Government preferred an appeal in A.S.No.7 of 1992 before the Subordinate Court, Kancheepuram. The said A.S. was dismissed on 16.06.1993. The Government of Tamil Nadu did not prefer Second Appeal and hence, the judgment and decree of the District Munsif Court, Kancheepuram, dated

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07.11.1991 has become final. After the death of the said Panchachara Mudaliar, the plaintiffs have been in continuous possession and enjoyment of the suit schedule property.

4. The defendants who are the neighbours, attempted to trespass into the suit schedule property and tried to put up construction in the Northern side of the suit schedule property. Therefore, the plaintiffs have filed the present suit in O.S.No.88 of 2022 for permanent injunction restraining the defendants from interfering with the suit schedule property.

5. The defendants in the present suit, filed two applications, one in I.A.No.5 of 2022 for rejection of the plaint and another application in I.A.No.6 of 2022 to mark the documents in I.A.No.5 of 2022 to show the present suit filed by the plaintiffs, is only a re-litigation which was already decided in O.S.No.1275 of 1996, by the same Court.

6. The reasons stated in the above said I.As. are that the revision petitioners/plaintiffs suppressed the earlier suit filed by them between the plaintiffs and the defendants in O.S.No.1275 of 1996 and O.S.No.69 of 1997.

7. Other than the above said two suits, the first defendant's mother, namely Devamirthammal also filed suit against one Thanigaimalai Mudaliar in

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O.S.No.571 of 1974 before the District Munsif Court, Kancheepuram and the suit was compromised between Thanigaimalai Mudaliar and the said Devamrithammal. The said Thanigaimalai Mudaliar is the brother of the said Panchakshara Mudaliar, who succeeded the interest in the property of the said Thanigaimalai Mudaliar and the said property is covered under the compromise decree dated 18.01.1977.

8. Further, during the proceedings in O.S.No.1275 of 1996 on the file of the Additional District Munsif Court, Kancheepuram, the present revision petitioners/plaintiffs produced the judgment and decree passed in O.S..No.39 of 1985 and set up their title over the suit schedule property. The said contention was rejected by the trial Court on the ground that Devarmirthammal and Mr.K.Loganathan (the first respondent herein), are not parties to the suit in O.S.No.39 of 1985. Hence, the present suit itself is abuse of process of law. Therefore, the defendants have filed the application for rejection of the plaint under Order 7 Rule 11 CPC in I.A.No.5 of 2022 in O.S.No.88 of 2022. When the defendants attempted to mark the judgment and decree copy of the present suit in O.S.No.88 of 2022, the plaintiffs objected the same on the ground that the allegations contained in the plaint alone can be looked into while considering the application filed for rejection of the plaint. Hence, he is not able to mark the judgment and decree of the earlier proceedings. The present plaint is silent about the previous proceedings and unless the defendants are allowed to

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mark the documents, the defendants could not make out a case for rejection of the plaint. Hence, the defendants in the present suit, filed I.A.No.5 of 2022 to permit to mark the documents.

9. The trial Court, considering the pleadings and the rival contentions, allowed I.A.No.6 of 2022 in O.S.No.88 of 2022 on the ground that the question of res-judicata can be decided in I.A.No.5 of 2022 filed under Order 7 Rule 11 to reject the plaint. The validity of such documents, can be decided at the time of hearing the petition filed under Order 7 Rule 11 CPC in I.A.No.5 of 2022. Mere marking of documents would cause no prejudice to the plaintiffs and would not be treated as I.A.No.5 of 2022 alone.

10. Heard both sides and perused the materials available on record.

11. Learned counsel for the revision petitioners/plaintiffs submitted that it is settled law that while considering the application for rejection of the plaint under Order 7 Rule 11 CPC, the allegations made in the plaint alone shall be considered and the allegations in the petition filed for rejection of the plaint by the defendants or the documents other than the plaint, cannot be considered.

12. The defendants, have admitted in the petition filed for marking of the documents that because of the objection of the plaintiffs, the defendants could

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not mark the documents in I.A.No.5 of 2022 in O.S.No.88 of 2022, which is filed for rejection of the plaint. Without marking the said documents, the defendants could not make out a case for rejection of the plaint.

13. When the specific provision restricting the consideration of averments other than the plaint averments and, receiving or marking of documents other than the plaint documents, is impermissible. Learned counsel for the revision petitioners herein/defendants, relied upon a judgment of the Honourable Supreme Court, reported in 2025 (10) SCC 279 (Pandurangan Vs. T.Jayarama Chettiar), more particularly, paragraph 7 of the said judgment of the Honourable Supreme Court, reads as under:

> "Issue relating to whether the ex parte is obtained by collusion, or whether Defendant 1, as alleged, has played fraud by filing a suit in a court having no jurisdiction or whether the appellant is a bona fide purchaser or not needs to be examined in detail. This Court has held that such circumstances require an in-depth examination of the previous decree, and its impact on the second suit. *Res judicata* cannot be decided merely on assertions made in the application seeking rejection of plaint. As held by this Court in *V.Rajeshwari Vs. T.C.Saravanabava (2004 (1) SCC 551)* identifying similarly in causes of action should be a matter for trial where documents from the first suit are studied and analysed. *Res judicata* cannot be a matter of speculation or inference. In *Kehav Sood Vs. Kirti Pradeep Sood (2023 SCC On Line SC 2459)* this Court took a strong view against the plea of *res judicata* being raised in applications seeking rejection of plaint and held as follows: (*Keshav Sood case (Keshav Sood Vs. Kirti*

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Pradeep Sood (2023 SCC On Line SC 2459)): paras 5-6:

> "5. As far as scope of Order 7 Rule 11 CPC is concerned, the law is well settled. The Court can look into only the averments made in the plaint and at the highest, documents produced along with the plaint. The defence of a defendant and documents relied upon by him cannot be looked into while deciding such application.
>
> 6. Hence, in our view, the issue of res judicata could not have been decided on an application under Order 7 Rule 11 CPC. The reason is that the adjudication on the issue involves consideration of the pleadings in the earlier suit, the judgment of the trial Court and the judgment of the appellate courts. Therefore, we make it clear that neither the learned Single Judge nor the Division Bench at this stage could have decided the plea of res judicata raised by the appellant on merits."

14. Therefore, as held by the Honourable Supreme Court in the above said case, the defence of the respondents/defendants and the documents relied upon by the respondents/defendants, cannot be looked into while deciding the rejection of the plaint under Order 7 Rule 11 of CPC. Hence, this Court is of the view that the impugned order of the trial Court, is liable to be set aside.

15. Further, this Court has not decided the petition which is pending before the trial Court for rejection of the plaint, filed under Order 7 Rule 11 of the CPC. This Court has also not expressed any opinion on the merits of this

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case.

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16. For the reasons stated above, this Civil Revision Petition is allowed. The impugned fair and decretal order dated 19.12.2022 made in I.A.No.6 of 2022 in O.S.No.88 of 2022 on the file of the Additional District Munsif Court, Kancheepuram, is hereby set aside.

17. At this juncture, learned counsel for the respondents/defendants requested this Court to fix a time limit for disposing of the suit in O.S.No.88 of 2022 on the file of the Additional District Munsif Court, Kancheepuram. Since I.A.No.5 of 2022 in the said O.S.No.88 of 2022 is pending, at present, such a direction to dispose of the suit, cannot be issued. However, the trial Court shall dispose of I.A.No.5 of 2022 in O.S.No.88 of 2022, as expeditiously as possible, by following the procedures under due process of law.

18. There shall be no order as to costs. Consequently, the miscellaneous petition is closed.

27.10.2026

Index: Yes/no
Speaking order: Yes/no
Neutral Case Citation: Yes/no
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To

The Additional District Munsif, Kancheepuram.

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R.RAJESH VIVEKANANTHAN, J

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Pre-delivery order in

C.R.P.No.4322 of 2023

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