

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON
15.04.2026PRONOUNCED ON
05.06.2026

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THE HON'BLE MR.JUSTICE K.KUMARESH BABU

CRP No. 2974 of 2021
and CMP.Nos.21257 & 21258 of 2021

1. Sumathi @ Sumithradevi
W/o.Natarajan, Maruthapalayam,
Mettumandha, Nallepilli, Chittur Taluk,
Palakkad District, Kerala State.
2. Senathipathi
S/o.Natarajan, Maruthapalayam, Mettumandha,
Nallepilli, Chittur Taluk,
Palakkad District, Kerala State.
3. Dr.M.KumariVinotha
D/o.Natarajan, Maruthapalayam, Mettumandha,
Nallepilli, Chittur Taluk,
Palakkad District, Kerala State.

..Petitioner(s)

Vs

1. Muthukumar
S/o.Mahalisamy, No.35B, Ayyasamy Kovil St,
Kaliappampalayam, Periyaneagamam,
Kinathukadavu Taluk.
2. Shanmugasundaram
S/o.PalaniamyGounder,
No.1/395, Sakkaravaliyan, Thottam,
Karavizhamathapur, Thottipalayam, Sulur
Taluk, Tiruppur Dist.
3. Muthukrishnan
S/o.A.Thangavelupillai, No.156, Muthu Nivas,
Nadamalika Road, Mannarkadu Town,



Mannarkadu Taluk, Palakkad District,
Kerala State.

4. Paranthaman
S/o.ThangaveuGounder,
No.12, Venkatramapuram Street,
Pollachi Town, Pollachi.
5. Dhanalakshmi
W/o.Sakaranarayanan, No.20, Kamarajar
Street, Mahalingapuram, Pollachi.
6. Gopalakrishnan
S/o.Late Muthusamy, No.68/88, Main Road,
Ramapattinam, Pollachi Tk,
7. Sivakumar
S/o.Late.NanjappaDevar, No.1/280D, Main
Road, Ramapattinam, Pollachi Taluk.
8. Muruganandham
S/o.Periyaduraisamy Gounder, Perumpathi,
Z.Kaliapuram Post, Pollachi Taluk.
9. P.Sivakumar
S/o.Periyaduraisamy Gounder, Perumpathi,
Z.Kaliapuram Post, Pollachi Taluk.
10. Shanmugapriya
W/o.Varadharaj @ Raju, D/o.Periaduraisamy
Gounder, Bagavathipalayam, Kinathukadavu
Taluk, Coimbatore District.
11. Jothimani
W/o.Palanisamy, S.Nagoor, Pollachi Taluk.
12. Varadharaj
S/o.Krishnasamy, Vinayagarkovil St,
Bagavathipoalayam, Kinathukadavu Taluk,
Coimbatore Dist.
13. Abinaya Malini
D/o.Varadharaj, Vinayagarkovil St,



Bagavathipoalayam, Kinathukadavu Taluk,
Coimbatore District.

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..Respondent(s)

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, to pass an order to call for the records in OS.No. 278 of 2021 on the file of the Sub-Court, Pollachi and to strike off the Complaint filed by Respondents 1 and 2 herein, as clear abuse of process of law and barred by law, and to allow the above Civil Revision Petition.

For Petitioner(s): Mr.J.Ravikumar

For Respondent(s): Mr.C.Jagadish for RR1 & 2

RR3 & 4 – Not ready in notice

RR5 to 9, 11 & 13 – served – No appearance

R10 - Died

ORDER

The Present Civil Revision Petition has been filed seeking to call for the records in O.S.No.278 of 2021 pending on the file of the learned Sub Court, Pollachi and to strike off the complaint as an abuse of process of law, and barred by law.

2. Heard Mr.J.Ravikumar , learned Counsel appearing for the Petitioner and Mr.C.Jagadish Learned counsel appearing on behalf of the Respondents.



3. Mr.J.Ravikumar learned Counsel appearing for the Petitioner's would submit that, according to the petitioners. Their predecessor-in-interest, namely Natarajan, who is the husband of the first petitioner and father of petitioners 2 and 3, had entered into a valid agreement of sale dated 17.01.1994 with Duraisamy Gounder and his sons in respect of the suit properties. It is their specific case that under the terms of the said agreement, possession of the suit properties was also delivered to Natarajan and that he had paid the entire sale consideration to the vendors.

4. Learned counsel would further submit that since the vendors failed to execute the sale deed in terms of the agreement. Natarajan was constrained to institute a suit in O.S.No.90 of 2008 on the file of the learned Subordinate Judge, Pollachi seeking the relief of specific performance of the said agreement of sale. The said suit is stated to be pending adjudication. He would also submit that when the earlier suit for specific performance involving the very same property is pending consideration before the competent Civil Court, the respondents/plaintiffs, who are subsequent purchasers claiming through the very same vendors, cannot maintain an independent suit for declaration and injunction in respect of the same subject matter.

5. Learned counsel contend that the respondents/plaintiffs are not the original owners and derive title only through subsequent transactions.



Therefore, according to the petitioners, the respondents cannot claim any better title than their vendors and their rights would necessarily be subject to the prior contractual obligations undertaken by the original owners in favour of Natarajan. He further contended that the delivery of possession under the agreement of sale dated 17.01.1994, their possession is protected under Section 53-A of the Transfer of Property Act, 1882 and neither the original vendors (Durai gounder or his legal heirs) nor any person claiming through them, including the present respondents/plaintiffs, is debarred from enforcing against the petitioner's.

6. It is their further submission that the sale deed executed in favour of the respondents/plaintiffs on 15.07.2021 during the pendency of O.S.No.90 of 2008 is hit by the *Doctrine of Lis pendens* under Section 52 of the Transfer of Property Act, 1882 and therefore the respondents/plaintiffs cannot seek independent declaratory relief contrary to the rights claimed by the petitioners in the earlier suit in O.S.90/2008.

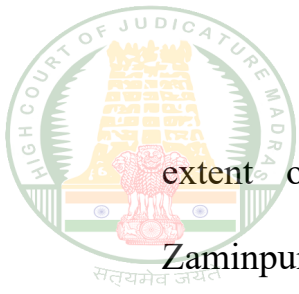
7. Learned counsel further contended that the issue relating to the validity and enforceability of the agreement dated 17.01.1994 had already been considered in the earlier suit when an application seeking rejection of the plaint was dismissed in I.A.No.165 of 2012 by order dated 13.03.2013, which has attained finality. Therefore, according to the petitioners, the respondents cannot



be permitted to re-agitate identical issues in a subsequent suit. He would further submit that the present suit is barred by the principles of *res sub judice* under Section 10 of the Code of Civil Procedure, 1908 since the parties, subject matter and issues involved in both suits are substantially identical and are already pending before a competent Civil Court. The petitioners would further contend that the respondents/plaintiffs have approached the Court with obtaining relief by suppressing material facts relating to the earlier litigation.

8. Learned counsel for Petitioner further contends that the plaintiff's being transferees *pendente lite* cannot claim any independent right and are bound by the outcome of the prior suit. The present suit is barred under Order 21 Rule 101 CPC and is a clear abuse of process as held in the Hon'ble Apex Court Judgment **K.K.Modi vs K.N.Modi 1998 (3) SCC 573**. Hence he prays this court to strike off the plaint.

9. Countering the above arguments the learned counsel for the Respondents contended that Respondents/Defendants 1 and 2 are the absolute owners of the suit properties having purchased the same under a registered Sale Deed dated 15.07.2021 registered as Document No.6700 of 2021. According to the Respondents/plaintiffs, by virtue of the said conveyance, they were put in possession and enjoyment of the suit properties as absolute owners and continue to remain in lawful possession thereof. He further contended that the larger



extent of land measuring 13.61 acres in Survey No.41 situated at Zaminpuravipalayam Village was originally allotted jointly in favour of one Duraisamy Gounder, who is the predecessor-in-title of defendants 8 to 11, and one Chinnadurai, under a registered Partition Deed dated 27.09.1970 registered as Document No.1610 of 1970. As per the recitals contained therein, both of them were jointly allotted the 'B' Schedule properties, which included the lands comprised in Survey No.41.

10. Learned Counsel for the Respondents contended that during the lifetime of the said Duraisamy Gounder and Chinnadurai, there was an oral partition between them, pursuant to which Chinnadurai was allotted an extent of 6.80½ acres on the northern side of Survey No.41, while Duraisamy Gounder was allotted an equivalent extent on the southern side. It is their specific case that both parties were thereafter in separate possession and enjoyment of their respective portions.

11. He would further submit that the demise of Chinnadurai intestate, his legal heirs, namely his wife and children, succeeded to his share and jointly conveyed the northern portion measuring 6.80½ acres in Survey No.41 in favour of one Natarajan, who is stated to be the husband and father of Petitioner's herein, under a registered Sale Deed dated 18.03.1998 registered as Document No.5062 of 1998. He further stated that after the death of Duraisamy



Gounder intestate, his legal heirs succeeded to his share and jointly sold the southern portion measuring 6.80½ acres in Survey No.41 in favour of respondents 3 and 4 under a registered Sale Deed dated 30.11.2011 registered as Document No.11083 of 2011, pursuant to which possession was also delivered. He would further contended that subsequently, one of the purchasers, namely Muthukrishnan, settled his undivided share in favour of his sister Dhanalakshmi under a registered Settlement Deed dated 28.08.2012 registered as Document No.6716 of 2012, and possession was accordingly handed over to the settlee.

12. Learned Counsel contended that that thereafter, Paranthaman and Dhanalakshmi jointly sold an extent of 30½ cents in Survey No.41 in favour of Sivakumar under a registered Sale Deed dated 02.07.2013 registered as Document No.4926 of 2013. Thereafter, Paranthaman is stated to have sold the remaining extent of 6.50 acres in Survey No.41 in favour of Gopalakrishnan under a registered Sale Deed dated 19.07.2013 registered as Document No.5463 of 2013. The Respondent's/Plaintiffs purchased the suit properties from Gopalakrishnan, Dhanalakshmi and Sivakumar under the registered Sale Deed dated 15.07.2021 and thereafter effected mutation in the revenue records in their favour. The respondents/plaintiffs rely upon revenue documents such as chitta, Village Administrative Officer certificate and kist receipts to substantiate their claim of possession and enjoyment.

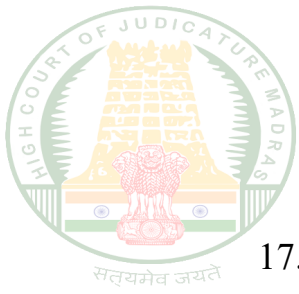


13. He would further contend that the original owners themselves had orally partitioned the property and were enjoying their respective portions separately for several years and such separate possession is also reflected in the recitals contained in the earlier title documents.

14. It is their specific contention that the property claimed by petitioner's is situated on the northern side and that the suit property purchased by the respondent/plaintiffs is distinct and identifiable. According to them, the intervening property belonging to the 7th respondent clearly establishes the separate identity of the respondent/plaintiffs' property.

15. The Respondent counsel would further allege that Natarajan, predecessor of petitioner's had fabricated an agreement of sale dated 17.01.1994 purportedly executed by Duraisamy Gounder and his sons. Based on the said agreement, Natarajan had instituted O.S.No.90 of 2008 seeking specific performance after an inordinate delay of nearly fourteen years.

16. Learned counsel for respondents would further contended that the said suit for specific performance is barred by limitation and the alternative prayer for refund of advance amount is also legally unsustainable. Therefore, the Respondent/Plaintiff's would contend that the said unregistered agreement does not confer any legal right upon the petitioner's.



17. The repondents/plaintiffs would further contend that they are *bona fide* purchasers for valuable consideration without notice of either the alleged agreement dated 17.01.1994 or the pendency of O.S.No.90 of 2008 and therefore their title cannot be defeated on the strength of the alleged prior unregistered agreement. The petitioner's taking advantage of the alleged agreement of sale, have been attempting to interfere with their peaceful possession and enjoyment of the suit properties. In view of the above, the learned counsel prays this court to dismiss the present revision petition.

18. I have considered the submissions made by the learned counsels appearing on either side and perused the materials available on record.

19. Even though contentious arguments were made before this Court, it is the duty of the Court to look at the judgment of the Hon'ble Apex court made in the case of *P.Suresh Vs D.Kalaivani and others* reported in **2026 INSC 121**, where the Hon'ble Apex Court had held that availability of alternative remedy under CPC shall be treated as complete and near total bar on the High Court to exercise its power under Article 227 of the Constitution. For better appreciation, the relevant paragraphs are extracted hereunder:-

“ 7. When the powers under Article 227 of the Constitution are of supervisory nature and when the aforestated settled dictum of law is that



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the High Court does not act as a court of appeal or a court of error, it would logically follow that the powers under Article 227 would not be exercised when the non-exercise of such powers does not result into miscarriage of justice or deprivation of remedy in law to a party.

7.1 It is to be conceived as one of the prohibited area for exercising Article 227 powers where, in respect of the grievance for which party has remedy in law, these powers are surely to be invoked. The principle is therefore to be emphasized that the exercise of supervisory jurisdiction under Article 227 of the Constitution has to be treated as an exceptional resort when an alternative efficacious civil remedy by way of appeal or revision or any other, like Order VII Rule 11, CPC in the present case, is available to the party for the redressal of the grievance.

7.2 The proposition that the availability of alternative remedy shall be legitimately construed to displace the exercise of Constitutional jurisdiction by the High Court, is true not only for the purpose of exercising powers under Article 226 of the Constitution but also for the purpose of invoking Article 227 of the Constitution.

7.3 In the garb of exercising supervisory jurisdiction under Article 227 of the Constitution, the High Court is not expected to engulf the specific statutory remedy or provision in law and, thus, become a supervisor over

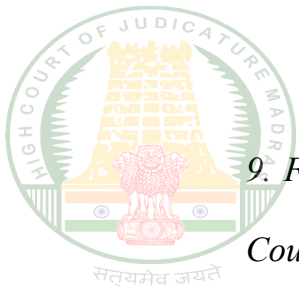


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the court below or the tribunal, as the case may be. It would be a legally wise exercise of discretion for the High Court to adopt and adhere to such self-imposed discipline and to insist that the aggrieved party should take recourse to such alternative remedy or statutory provision available in law, especially, for the case falling in category indicated in Virudhunagar⁶ (supra) where remedy available in the CPC for the cases falling under category/other law also, where such specific statutory remedy is available, the dictum laid down herein is true to grant extent.

7.4 As stated above, embargo in this regard would have to be construed as near total when provision is available in CPC. It is held, therefore, that once the specific provision under Order VII Rule 11 of the CPC, is available, the High Court cannot exercise powers under Article 227 to reject or strike off the plaint. For such relief, the specific provision under Order VII Rule 11, CPC, will have to be resorted to, on the grounds mentioned in the said provision.

8. In adopting such approach, the High Court would be giving due regard to the legislative intent. When the legislature has enacted specific remedial provision to be taken recourse to by the person aggrieved to challenge the orders and decisions of the court to seek redress in law accordingly that remedy alone will have to be sought for.

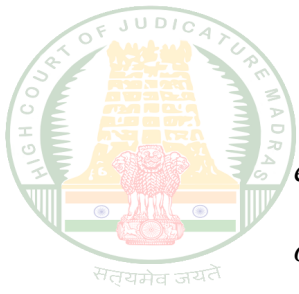


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9. From the aforesaid discussion, it would logically follow that the High Court would not only discourage but desist from exercising jurisdiction under Article 227 of the Constitution in respect of a challenge for which a separate, distinct, and specific remedy or statutory provision is available under the statute concerned. Availability of an alternative civil remedy and/or under the CPC shall be treated as complete and near total bar on the High Court to venture to invoke and exercise its power available under Article 227 of the Constitution, except where exercise of supervisory jurisdiction becomes absolutely necessary.

20. In the judgment rendered by the Hon'ble Apex Court reported in **2025 INSC 606**, the Hon'ble Apex Court had categorically held that the Civil Procedure Code is a self contained Code wherein power had been vested under Order VII Rule 11 to reject a plaint and that such rejection amounts to a decree which is appealable under Section 96 and it had further held that such a statutory claim under the Act cannot be upended in invoking supervisory jurisdiction of the High Court under Article 227 to entertain a prayer for rejection of the plaint. For better appreciation, the relevant paragraphs are extracted hereunder:-

“ 9. Essence of the power under Article 227 being supervisory, it cannot be invoked to usurp the original jurisdiction of the court which it seeks to supervise. Nor can it be invoked to supplant a statutory legal remedy under the Civil Procedure Code, 19085. For



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example, existence of appellate remedy under Section 96 of the Code operates as a near total bar to exercise of supervisory jurisdiction under Article 227.

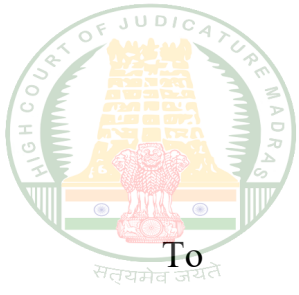
10. Civil Procedure Code is a self-contained Code and Order VII Rule 11 therein enumerates the circumstances in which the trial court may reject a plaint. Such rejection amounts to a deemed decree which is appealable before the High Court under Section 96 of the Code. This statutory scheme cannot be upended by invoking supervisory jurisdiction of the High Court under Article 227 to entertain a prayer for rejection of plaint...”

21. In view of the aforesaid judgments, this Court is refraining itself from entertaining the present Revision, however, is of the view that the petitioner would be at liberty to invoke the Provisions of Order VII Rule 11 to strike off the plaint.

05.06.2026

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

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To

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1. The Sub-Court, Pollachi

2. The Section Officer,
VR Section,
Madras High Court,
Chennai.



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CRP No. 2974 of 2



K.KUMARESH BABU, J.

GBA

A Pre-delivery order made in

CRP No. 2974 of 2021
and CMP.Nos.21257 & 21258 of 2021

05.06.2026