



WEB COPY

A No. 4506 of 2
in T.O.S. No.1 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-02-2026

CORAM

THE HON'BLE MR.JUSTICE P. DHANABAL

**A No. 4506 of 2025
in TOS NO. 1 OF 2018**

1. Smt.Saraswathy Bhuvarahan
W/o.Late Sri.Bhuvarahan
2. Smt.Uma Ravi W/o.Sri.Ravishankar.

..Applicant(s)

Vs

1. Akila Vijayakumar W/o.Sri Vijayakumar
2. T.Srilatha W/o.Sri.Tamilselvam
3. Srisudha Gnanaprakasam
W/o.Sri.Gnanaprakasam.

..Respondent(s)

PRAYER: The application has been filed under Order XIV Rule 8 of Original Side Rules read with Order VII Rule 11 of Code of Civil Procedure (a) and (d) read with Section 151 of Code of Civil Procedure praying to reject the plaint in T.O.S.No.1 of 2018 as barred by law under order VII Rule 11 C.P.C. (a) and (d) and R/w.Sec.151 of C.P.C.

For Applicant(s): Mr. Raghavachari, Senior Counsel
for M/S.N.Doraikannan

For Respondent(s): Mr. N.L. Rajah Senior Counsel
for Ms. Vidya Chetan [for R1]

Ms. A.V. Bharathi [for R2 and R3]

ORDER

This application has been filed by the applicants to reject the Plaint in



TOS No.1 of 2018 as barred by law under Order VII Rule 11 of Code of Civil Procedure (a) and (d) read with Section 151 of Code of Civil Procedure.

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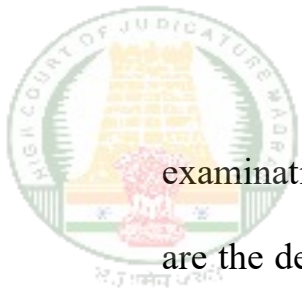
2. The learned Senior Counsel appearing for the applicants would submit that the applicants are the defendants 1 and 2 and the Plaintiff has filed an Original petition for grant of Letters of Administration that the Will dated 27.11.2007 executed in favour of the Plaintiff by Late G. Bhuvarahan and the defendants have raised objections and they have caveatable interest, thereby the above petition has been treated as TOS. The 1st applicant is the wife of Late G. Bhuvarahan and the 2nd applicant and the 2nd respondent are the daughters of the said Late G. Bhuvarahan. The 1st respondent / Plaintiff has filed a Suit in O.S. No.4120 of 2014 on the file of the I Assistant City Civil Court, Chennai challenging the registered Settlement Deed dated 10.01.2008 executed by her father Late Sri G. Bhuvarahan in favour of the 1st and 2nd applicants / defendants and the 2nd respondent / 4th defendant. The 1st respondent / Plaintiff contended that she is the sole beneficiary of the schedule mentioned property based on an unregistered Will dated 27.11.2007. The said Will is a forged Will. There is no cause of action for the Suit and the Settlement Deed was executed on 10.01.2008 and no relief has been sought for to set aside the said Settlement deed, thereby, the Suit is barred by limitation. Proving the authenticity of the Will, the subject matter of the present Suit and the basic documents relied upon by the Plaintiff are the forged documents, thereby, the Will is barred by law. There is no cause of action for the Suit and the Suit is liable to be rejected.



3. The learned Senior Counsel appearing for the respondents would submit that the father of the 1st respondent, 2nd applicant and husband of the 1st applicant namely Late Sri G. Bhuvarahan is the owner of the property and he died on 23.02.2014. The said Sri G. Bhuvarahan had executed his last Will and Testament on 27.11.2007. The 1st respondent herein has filed a Suit in O.S. No.4120 of 2014 for injunction and the same is pending. Even in the said Suit, the Will has been referred. After filing the above said Suit, the applicants herein also filed Suits in O.S. Nos.5455 of 2014 and 5047 of 2015 in the same Court and the same are pending and thereafter, the 1st respondent filed an Original Petition in O.P. No.882 of 2017 and it was converted as T.O.S. No.1 of 2018 and already the case has been posted for examination of witnesses and now the case is pending for examination of defendant side witnesses. At this stage, the applicants have now filed this application and there are no grounds to attract the order VII Rule 11 of Code of Civil Procedure and only to delay the proceedings, this application has been filed and the application is liable to be dismissed.

4. Heard both sides and perused the entire materials available on record.

5. It is an admitted fact that the main T.O.S. No.1 of 2018 has been filed in respect of the Will dated 27.11.2007. Initially an Original Petition was filed in O.P. No.882 of 2017 and thereafter, it was converted as T.O.S. No.1 of 2018 and admittedly the case has been subjected for trial and now it is posted for



examination of defendants' side witnesses. At this stage, the applicants, who are the defendants 1 and 2, have filed this application to reject the Plaint on the ground that there is no cause of action for the Suit and the Suit is barred by law.

6. As far as cause of action is concerned, the Plaintiff has pleaded in the Plaint about the Will dated 27.11.2007 and it is an admitted fact the deceased G. Bhuvarahan died on 23.02.2014. Therefore, the contention that there is no cause of action has to be tested through trial Court and already the Plaintiff side evidence was closed and the case is pending for defendant side witnesses. According to the applicants, the unregistered Will is a forged one and thereby, it is barred by law. The said contention of the applicants that the Will is a forged one, cannot be decided in the application filed under Order VII Rule 11 of Code of Civil Procedure to reject the Plaint and it needs elaborate trial and in this case, already trial has been commenced and the case is posted for examination of defence side witnesses. Therefore, at this stage, the said plea of forgery cannot be considered. It is true that the application for rejection of Plaint can be filed at any stage, but once the Plaintiff pleaded in the Plaint about the cause of action, that itself is sufficient to maintain the Suit and whether the cause of action pleaded is true or not, has to be tested through trial and the same cannot be decided in the application filed under Order VII Rule 11 of Code of Civil Procedure.



7. As far as the Suit is barred by limitation is concerned, according to the applicants, the deceased executed a Settlement Deed dated 10.01.2008 and the said settlement deed has not been challenged, therefore, the present Suit is barred by limitation. The 1st respondent / Plaintiff has not filed the Suit challenging the said Settlement deed and she has filed the Suit only for grant of Letters of Administration through the Will. Therefore, the question of 'limitation' in respect of Settlement deed, has no relevance. Even assuming that the Suit is barred by limitation, it is mingled with question of law and facts and the same can be decided only after full trial and the same cannot be decided at this stage. Therefore, there are no grounds to attract the provisions under Order VII Rule 11 of Code of Civil Procedure. Moreover, already the case is posted for defendants' side witnesses. At this stage, the applicants have filed this application without conducting the trial and without any valid grounds. Therefore, there are no grounds to consider this application under Order VII Rule 11 of Code of Civil Procedure and hence, this application has no merits and the same is liable to be dismissed.

8. Accordingly, this application is *dismissed*.

26-02-2026
[1/2]

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

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P.DHANABAL, J.

MJS

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[1/2]**