



A.No.505 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-04-2026

CORAM

THE HON'BLE DR.JUSTICE A.D.MARIA CLETE

A No. 505 of 2026

IN

CS NO. 345 OF 2019

Mrs.Shanthi @ Yazhini,
W/o.M.Basker, No.21/33, Appu Street, Mylapore,
Chennai 4.

..Applicant(s)

Vs

1. Hari krishnan
S/o.s.Kabali, No.14, Ramakrishnapuram 5th
Street, Mylapore, Chennai 4
2. M.S.Basker
S/o.Late.K.Muthusamy,
Old No.21, New No.33, Appu Street, Mylapore,
Chennai-60004

..Respondent(s)

PRAYER: To reject the Plaint in C.S.No.345 of 2019 as barred by law.

For Applicant(s): M/S.Sankarasubbu

For Respondent(s): Mr.M.Arunkumar

ORDER

Heard



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2. This application has been filed by the second defendant, formerly the fourth defendant, seeking rejection of the plaint in C.S.No.345 of 2019 as it does not disclose and have a real cause of action and is also barred by law as it is fraud.

3. On perusal of the record shows that this is not the first application of that nature. Earlier, after the applicant had been impleaded as fourth defendant in A.No.8906 of 2019 on an undertaking that no further application would be filed and that the suit, in which trial had already commenced, should not be delayed, she filed A.No.5282 of 2023 seeking rejection of the plaint on the grounds, inter alia, that the suit was a re-litigation and that she had paid mortgage money in respect of the property. By detailed order dated 22.11.2023, this Court dismissed that application, holding that rejection of plaint under Order VII Rule 11 CPC can be entertained only on the limited grounds available from the plaint averments, that the earlier city civil court litigation in O.S.Nos.2429 and 3126 of 2012 did not bar the present suit, and that the present suit for recovery by the purchaser could not be treated as re-litigation merely because the third defendant had earlier obtained an injunction in respect of the property settled in his favour.



4. The present application has again been opposed by the plaintiff. In the counter affidavit, the plaintiff states that none of the ingredients of Order VII Rule 11 CPC are made out; that the present application is only a second attempt to reopen what has already been decided in A.No.5282 of 2023; and that, after the earlier dismissal, defendants 1 and 2 were deleted on 28.07.2025 and the plaint was correspondingly amended. The plaintiff further pleads that the suit was filed on the basis of his registered sale deed dated 25.11.2016, that the suit was instituted in 2019, and that insofar as the main relief is for recovery of possession, limitation is governed by Article 65 of the Limitation Act, giving twelve years. He also states that the grounds now projected, such as fraud in obtaining the sale deed, are all matters of evidence already raised in the written statement and cannot furnish a basis for rejection of the plaint at the threshold. In support, the plaintiff has also referred to the previous dismissal order and to the principle that a plaint cannot be rejected piecemeal or on disputed factual pleas.

5. This Court finds no merit in the present application. The order dated 22.11.2023 in A.No.5282 of 2023 directly covers the central grounds urged once again by the applicant. In that order, this Court had already held that the previous suits O.S.No.2429 of 2012 and O.S.No.3126 of 2012 were confined to the subject



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matter of the settlement in favour of the first defendant formerly third defendant and did not constitute a bar to the present suit filed by the purchaser for recovery of possession. It was also held that the plea regarding payment of mortgage amount by the fourth defendant could not be gone into at the stage of Order VII Rule 11. Most importantly, the Court had reiterated the elementary principle that whether the suit is barred by law must be seen from the plaint averments alone, and not from the defence or disputed documents. In the present case, even as per the plaint and the counter, the plaintiff claims under a registered sale deed dated 25.11.2016 and filed the suit in 2019; the suit on its face cannot be said to be barred by limitation. Equally, the allegations of fraud, coercion, collusion, sham sale, lack of possession, and the effect of prior proceedings are all contested matters requiring evidence. The deposition records placed before the Court themselves show that these are the very matters on which the parties have joined issue at trial. The plaintiff was extensively cross-examined on his knowledge of the prior suits, the mortgage, the sale consideration, possession, and the alleged renovation; third defendant has entered the box and marked the earlier suits, judgment and decree as defence exhibits. These circumstances only reinforce that the controversy is evidentiary and cannot be summarily terminated by invoking Order VII Rule 11 CPC.



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6. This second application for rejection of plaint on substantially overlapping grounds, after the dismissal of the first such application, is plainly not conducive to orderly progress of the suit.

7. Accordingly, A.No.505 of 2026 is dismissed. No costs.

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

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DR.A.D.MARIA CLETE, J.

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