

A.S(MD)No.224 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 01.04.2026

Pronounced on : 25.06.2026

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

A.S(MD)No.224 of 2025

and

C.M.P(MD)No.8732 of 2025

- 1.K.S.Ganapathy,
S/o.Chinnal Ambalam,
Nattarmangalam,
Kottairuppu Post,
Thirupathur Taluk,
Sivagangai District.
2. Susila,
W/o.K.S.Shanmugam,
Nattarmangalam,
Kottairuppu Post,
Thirupathur Taluk,
Sivagangai District.
3. Senthilkumar,
S/o.K.S.Shanmugam,
Nattarmangalam,
Kottairuppu Post,
Thirupathur Taluk,
Sivagangai District.
4. Mayilvani, W/o.Senthil
D/o.K.S.Shanmugam,
Nattarmangalam,
Kottairuppu Post,
Thirupathur Taluk,
Sivagangai District.

... Appellants/Plaintiffs



A.S(MD)No.224 of 2025

Vs.

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- 1.K.Gangai Ammal,
W/o.Late.K.P.Kuppusamy Moopanar,
Narasingam Village,
Y.Othakadai,
Madurai East Taluk,
Madurai District.
2. P.Vennila,
D/o.Late.K.P.Kuppusamy Moopanar,
W/o.M.Prabakar,
Narasingam Village,
Y.Othakadai,
Madurai East Taluk,
Madurai District.
3. Anbuthambi,
S/o.Late.K.P.Kuppusamy Moopanar,
Keelaiyur Village,
Melur Taluk,
Madurai District.
4. Chithuraani,
D/o.Late.K.P.Kuppusamy Moopanar,
Keelaiyur Village,
Melur Taluk,
Madurai District.
5. Mariyammal Alias Mari (Died)
W/o.Late.Asaithambi,
Narasingam Village,
Y.Othakadai,
Madurai East Taluk,
Madurai District.



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6. Ajitha,
D/o.Late.Asaithambi,
Narasingam Village,
Y.Othakadai,
Madurai East Taluk,
Madurai District.

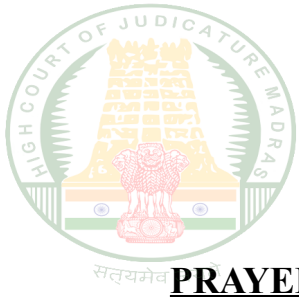
7. Arul Vinoth Kumar,
S/o.Late.Asaithambi,
Narasingam Village,
Y.Othakadai,
Madurai East Taluk,
Madurai District.

8. Anuja,
D/o.Late.Asaithambi,
Narasingam Village,
Y.Othakadai,
Madurai East Taluk,
Madurai District.

9. Jai Ganesh,
S/o.Late.K.S.Shanmugam,
Previously Resided at Naattarmangalam,
Kottaiyiruppu Post,
Thirupattur Post,
Sivagangai District.
Now Residing at
B.L.K.766, 09-301,
Choachukang, North – 5,
Singapore – 680 766.

...Respondents/Defendants

(Memo dated 17.03.2026 presented before the Court on 17.03.2026, recorded as R5 died and R6 to R8, who are already on record, are recorded as LR's of the deceased R5 vide Court order, dated 17.03.2026 made in A.S(MD)No.224 of 2025)



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PRAYER:- This Appeal Suit is filed under Order 41 Rule 1 r/w Section 96 of CPC., to set aside the judgment and decree, dated 29.08.2024 passed in O.S.No.163 of 2019 on the file of the IV Additional District Judge, Madurai.

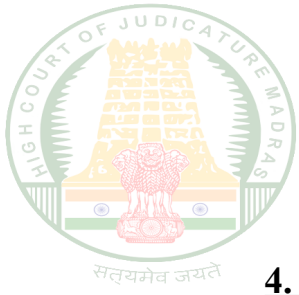
For Appellants	: Mr.V.N.Arjun
For R1 & R2	: Mr.R.Suriya Narayanan
R3 & R4	: Dispensed With
R5	: Died
For R6 to R8	: Mr.K.M.Karunakaran
For R9	: Mr.Khoushik Nivas

JUDGMENT

This Appeal is directed against the judgment and decree, dated 29.08.2024 passed in O.S.No.163 of 2019 on the file of the IV Additional District Court, Madurai.

2.The appellants are the plaintiffs in O.S.No.163 of 2019 on the file of the IV Additional District Court, Madurai. The respondents are the defendants in that suit.

3.For the sake of convenience, the parties are referred to as per their rank before the trial Court.



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4. The brief facts are as below:

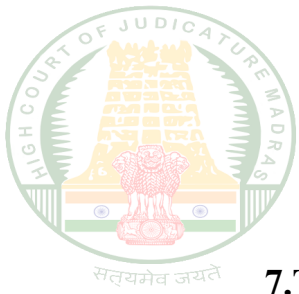
(i) The plaintiffs have filed the suit in O.S.No.163 of 2019, praying for declaring that the judgment and decree, dated 29.09.2008 passed in O.S.No.29 of 2005 on the file of the IV Additional District Court, Madurai, is null and void and also prayed for partition in respect of items 1 to 3 of the suit properties.

ii) On receipt of summons, the defendants 1 and 2, who are the respondents 1 & 2 herein, appeared through their counsel and filed petition in I.A.No.54 of 2020 in O.S.No.163 of 2019 under Order 7 Rule 11 (a) and (d) of CPC, to reject the plaint

(iii) The plaintiffs contested the petition to reject the plaint and filed a counter.

5.After hearing both sides and after perusal of material records, the trial Court has allowed the petition on 29.08.2024 and thereby rejected the suit in O.S.No.163 of 2019.

6.Aggrieved by the judgment and decree of the trial Court, dated 29.08.2024, the plaintiffs in O.S.No.163 of 2019 have preferred this appeal.



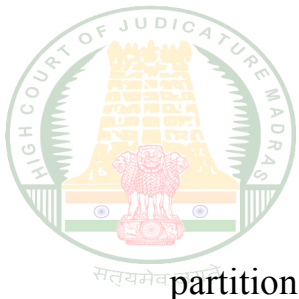
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7.The point for consideration in this appeal is:

Whether the trial Court has rightly rejected the suit in O.S.No.163 of 2019 by allowing the petition in I.A.No.54 of 2020 in O.S.No.163 of 2019 for rejection of plaint filed under Order 7 Rule 11(a) & (d) and Section 151 of CPC filed by the defendants 1 and 2?

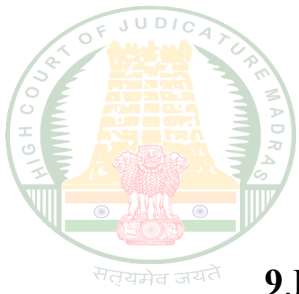
8.The learned counsel for appellants/plaintiffs has argued that the suit properties originally belonged to one K.P.Kuppusamy Moopanar. The defendants 3 and 4 are son and daughter of the said Kuppusamy Moopanar through his wife, one Nallammal. The 1st plaintiff K.S.Ganapathi and his brother Late. K.S.Shanmugam, ie, husband of the 2nd plaintiff and father of plaintiffs 3 & 4 and 9th defendant, had purchased the 1st item of suit property from the defendants 3 and 4 on 04.10.2001. Thereafter, the defendants 1 and 2 who are other wife and daughter of Kuppusamy filed the suit in O.S.No.29 of 2005 for partition only in respect of 1st item of the suit properties. The said suit was contested by the 1st plaintiff and his brother K.S.Shanmugam, but the defendants 3 and 4 abstained from defending the suit in O.S.No.29 of 2005. In that suit, the other properties of Kuppusamy Moopanar were not added. By collusion, the defendants 1 and 2 obtained a preliminary decree for



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partition. As the plaintiffs were strangers to the appeal in A.S.No.13 of 2009 they could not establish the omission of properties. Thereafter, the defendants 1 and 2 filed a petition in I.A.No.734 of 2019 in O.S.No.29 of 2005 for a final decree for partition. The defendants 1 and 2 and defendants 3 to 8 purposely omitted the other properties and committed fraud by suppression of the same and obtained a decree in O.S.No.29 of 2005. So, the judgment and decree in O.S.No.29 of 2005 has to be declared as null and void. The case of the defendants 1 and 2 that the present suit is a relitigation and barred by *res judicata*, is not applicable. While considering the petition under Order 7 Rule 11 of CPC, the plaint averments alone are to be considered by the trial Court. The trial Court has not borne in mind the provision of Order 7 Rule 11 of CPC while allowing the petition filed by the defendants 1 and 2. The contentions raised by the defendants in the petition for rejection are all debatable and contentious. They have a vital point for consideration, mixed with a question of law and facts. These can be decided only after hearing oral and documentary evidence of both sides. The trial Court has not considered all these aspects and passed an erroneous order and hence, the same has to be set aside by allowing this appeal.



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9. In support of his contentions, the learned counsel for the plaintiffs has relied on the judgment of the Hon'ble Supreme Court in the case of **S.P.Chengalvaraya Naidu (died) by LRs /v/ Jagannath (died) by LRs and Others** reported in **1994 (1) SCC 1**, it is held as follows:

"Fraud-avoids all judicial acts, ecclesiastical or temporal" observed Chief Justice Edward Coke of England about three centuries ago. It is settled proposition of law that a judgment or decree obtained by playing fraud on the court is a nullity and non est in the eyes of law. Such a judgment/decree by the first court or by the highest court - has to be treated as a nullity by every court, whether superior or inferior. "

10. The learned counsel for the appellants/plaintiffs further submits that a plaint cannot be rejected at the threshold and relied on the decision of the Hon'ble Supreme Court in the case of **J.Muthurajan & Anr. /v/ Vaikundarajan and Ors.**, in which it is held as follows:

"31. We hence find the order of the trial court as confirmed by the High Court, resulting the rejection of the plaint to be egregiously erroneous in law. We are of the opinion that there is a prima facie



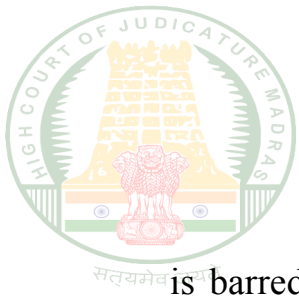
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cause of action disclosed in the suit and it cannot be termed vexatious or an abuse of the process of law. The cause of action as seen from the above discussion is a real one and not illusory or fictional'.

11.Per contra, the learned counsel for the respondents 1 and 2/defendants 1 and 2 has vehemently argued that these defendants, being the wife and daughter of the said Kuppusamy, filed a suit for partition in O.S.No.29 of 2005. In that suit, the 1st plaintiff and his brother, Late K.Shanmugam were parties/defendants 7 and 8 in O.S.No.29 of 2005, wherein they claimed that there were some other properties of late Kuppusamy Moopanar, but failed to prove the same. The trial Court has decreed the suit in O.S.No.29 of 2005 in favour of defendants 1 and 2 herein and the appeal preferred in A.S(MD)No.13 of 2009 was also dismissed on 22.10.2018. There is no SLP against the order of the High Court, so the decree has attained finality. Now, the defendants 1 and 2 filed a petition for final decree in terms of the preliminary decree in O.S.No.29 of 2005. Now, the plaintiffs have filed the present suit as if there is an omission of certain properties. This suit is purely an abuse of process of law and a relitigation. Furthermore, there is no pleading of fraud in obtaining the decree in O.S.No.29 of 2005. Hence, the present suit



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is barred by the provision of Order 7 Rule 11 of CPC. There is no cause of action for the suit. Hence, there is no debatable point or contentious point for the suit. The trial Court has properly appreciated the facts and correctly allowed the petition for rejection and consequently the plaint in O.S.No.163 of 2019 was rightly rejected. Therefore, the appeal may be dismissed.

12.In support of his contentions, the learned counsel for the respondents 1 and 2 has relied on the following citations:

(1) (2013) 8 MLJ 420 in the case of Radhakrishnan Reddy (Died) and Others /v/ G.Ayyavoo and Ors.

(2) (2019) 3 MLJ 377 (SC) in the case of Raghwendra Sharan Singh /v/ Ram Prasanna Singh (Dead) by LRs.

(3) 2023 (5) CTC 60 in the case of Ramisetty Venkatanna & Anr. /v/ Nasyam Jamal Saheb & Ors.

(4) (2024) 15 Supreme Court Cases 675 in the case of Shri Mukund Bhavan Trust and Others /v/ Shrimant Chhatrapati Udayan Raje Pratapsinh Maharaj Bhonsle and Anr.



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13.The learned counsel for the respondents 6 to 8 has argued that the appellants/plaintiffs' side has already taken the plea of partial partition in the previous partition suit in O.S.No.29 of 2005 and the same was rejected by the trial Court. The appeal preferred against the said decision was also dismissed by this Court. Now, the appellants/plaintiffs have once again taken the same plea in the present suit by pleading fraud and forgery of documents. The trial Court has rightly rejected the plaint under Order 7 Rule 11 of CPC upon the petition of respondents 1 and 2.

14.The learned counsel for 9th respondent has argued that the doctrine of *res judicata* will not apply and the present suit is maintainable and relied on the order of the Hon'ble Supreme Court in Civil Appeal No.7777 of 2023, dated 23.07.2025.

15.The material records of the case were carefully perused and the arguments advanced by both sides were considered. From the perusal of the records and from the arguments, it is clear that the plaintiffs have filed the present suit in O.S.No.163 of 2019 for “*declaring that the judgment and decree dated 29.09.2008 passed in O.S.No.29 of 2005 on the file of erstwhile*

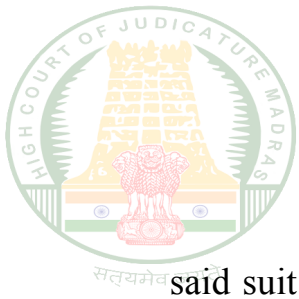


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FTC No.1, Madurai now IV Additional District Court, Madurai is null and void; to allot 2/5 share each to defendants 1 & 2 and defendants 3 & 4 in the suit items 1 to 3, and 1/5 share to 5 to 8 defendants who are legal heirs of AsaiThambi another legal heir of Kuppusamy Moopanar and to pass order to allot the suit 1st item to the defendants 3 and 4 and allot the same to plaintiffs and 9th defendant whose father and the plaintiffs purchased the 1st item from the defendants 3 and 4." The case of the plaintiffs is that the original ancestor, Kuppusamy Moopanar had the suit properties mentioned in this suit. But the defendants, suppressing the same, have filed a suit in O.S.No.29 of 2005 for partition in respect of the 1st item of suit property alone. They also pleaded that the defendants 3 and 4 herein, who sold out the 1st item to the father of the plaintiffs and the 9th defendant, colluded with the defendants 1 and 2 in obtaining a decree for partition in O.S.No.29 of 2005 in favour of the defendants 1 and 2.

16.The defendants 1 & 2 filed the petition under Order 7 Rule 11(a) and (d) r/w Section 151 of CPC, to reject the plaint on the ground that there is no cause of action and that the alleged purchaser, 1st plaintiff K.S. Ganapathy, and his brother K.S.Shanmugam were added as parties/defendants 7 and 8 in the



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said suit in O.S.No.29 of 2005. It is the specific contention of the defendants 1 and 2 that the 1st plaintiff K.S.Ganapathy and his brother K.S.Shanmugam took the same plea of partial partition arguing that the original owner, Kuppusamy Moopanar, had some other properties except the 1st item and the said plea was negatived, that suit in O.S.No.29 of 2005 was decreed in favour of the defendants 1 and 2. The appeal preferred by the 1st plaintiff and K.S.Shamugam in A.S(MD)No.13 of 2009 was also dismissed by this Court on 22.08.2018 and there is no SLP against the order of the High Court. This contention was not denied by the appellants/plaintiffs. On perusal of the pleading of the plaint, it is clear that there are no specific grounds/pleadings for fraud and collusion. Admittedly, the vendors of the 1st plaintiff and K.S.Shamugam were also parties to the previous suit as defendants 1 and 2. The trial Court allowed the petition for rejection.

17.The provisions of the Order 7 Rule 11 of CPC is as follows:

11.Rejection of plaint.- *The plaint shall be rejected in the following cases:-*

- (a) where it does not disclose a cause of action;*
- (b) where the relief claimed is unvalued, and the plaintiff, on being required by*



the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

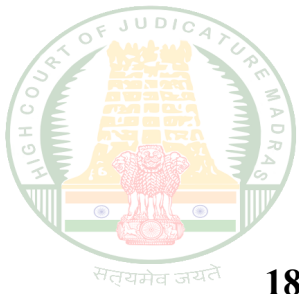
(c) where the relief claimed is property valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law;

(e) where it is not filed in duplicate;

(f) where the plaintiff fails to comply with the provisions of rule 9;

Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.



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18.The Hon'ble Supreme Court in a catena of judgments has settled that for deciding a petition filed under Order 7 Rule 11 of CPC, the plaint averments alone have to be taken into consideration. On perusal of the averments made in the plaint, the plaintiff has clearly averred the facts about the previous suit, the passing of preliminary decree in favour of defendants 1 and 2 herein and also the contest made by the 1st plaintiff and his brother K.S.Shanmugam as defendants 7 and 8 in O.S.No.29 of 2005 by contending partial partition. They also pleaded about the dismissal of the appeal preferred by 1st plaintiff and his brother K.S.Shanmugam. So, the decree in O.S.No.29 of 2005 reached finality. Again, the plaintiffs filed this suit for partition, seeking to allot the 1st item to them as the 1st plaintiff and his brother K.S.Shanmugam purchased the same from defendants 3 and 4 herein, who are defendants 1 and 2 in O.S.No.29 of 2005. So, it is pure abuse of process of law and relitigation as rightly contended by the defendants 1 and 2. And also, there is no pleading with regard to fraud and what kind of fraud was played by the defendants 1 to 4. The Hon'ble Apex Court has clearly held in various cases that if the petition is filed under Order 7 Rule 11 of CPC and the plaint averments herein do not disclose a cause of action the plaint must be rejected. The cause of the action mentioned is already shown in the previous suit in



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O.S.No.29 of 2005. The present suit is barred by *res judicata* as rightly held by the trial Court. The citations relied on by the plaintiffs are not applicable to the facts of this case, whereas the citations relied on by the defendants 1 and 2 are squarely applicable to this case on hand.

19.Therefore, in view of the above facts and circumstances, the trial Court has correctly appreciated the averments of the plaint and arguments of both sides and rightly allowed the petition for rejection of the plaint. From the above facts and circumstances, the impugned order of the trial court warrants no interference by way of this appeal. The point is answered accordingly. Thus, the appeal fails.

20.In the result, this Appeal Suit is dismissed. The judgment and decree, dated 29.08.2024 passed in O.S.No.163 of 2019 on the file of the IV Additional District Court, Madurai are confirmed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

25.06.2026

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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To

- 1.The IV Additional District Judge,
Madurai.
- 2.The Record Keeper,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

**Pre-Delivery Judgment made in
A.S(MD)No.224 of 2025
and
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25.06.2026