



CRP(MD). No.510 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 24.02.2026

CORAM

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

**CRP(MD). No.510 of 2026
and CMP(MD).No.2239 of 2026**

Mariappan

... Petitioner

Vs.

Sudha

... Respondent

PRAYER :-Civil Revision Petition filed under Section 115 of the Civil Procedure Code, to set aside the fair and decretal order, dated 17.11.2025, passed in I.A.No.7 of 2025 in O.S.No.25 of 2022 on the file of Learned Principal District Munsif Court, Tenkasi.

For Petitioner : Mr.M.P.Senthil

For Respondent : Mr.Rajeshwaran for
Mr.Sankararaman

ORDER

This civil revision petition has been filed to set aside the fair and decretal order, dated 17.11.2025, passed in I.A.No.7 of 2025 in O.S.No.25 of 2022 on the file of Learned Principal District Munsif Court, Tenkasi.



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2. Heard the learned counsel on either side and perused the records.

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3. The present Civil Revision Petition has been filed challenging the order rejecting I.A. No. 7 of 2025, which was filed under Order VII Rule 11 CPC seeking rejection of the plaint.

4. The learned counsel for the revision petitioner submitted that the Will in question was allegedly executed by Chellammal @ Mariammal during her lifetime. It is an admitted fact that the Will is unregistered. Based on the said Will, the plaintiff had issued a legal notice in the year 2017, to which the defendant had sent a reply dated 17.03.2017, denying all the allegations.

5. The learned counsel further contended that the suit has been filed after an inordinate delay of 25 years. It is submitted that, once the plaintiff had knowledge of the transactions, particularly upon receipt of the reply notice, the limitation period commenced. However, no explanation has been offered by the plaintiff for such delay.

6. In support of this contention, reliance was placed on the judgment of this Court in the case of Emperuman and others Vs. Rangarajan and others



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reported in 2017 (1) MWN (Civil) 630, wherein it has been held that, even in partition suits, once the plaintiff is aware of the relevant transactions, the limitation would begin to run.

7. Further reliance was placed on another judgment of this Court in the case of Vanajakshi Vs. Syed Sulaima Saheb and 7 others, reported in (2026) (1) CTC 717, dealing with the concept of knowledge under the Limitation Act. It is therefore contended that, in view of Article 113 of the Limitation Act, the suit is barred by limitation. The relevant portion are extracted hereunder.

“7. A close perusal of the averments contained in the plaint and the plaint documents, especially plaint documents Nos.4 and 6 would indicate that the plaintiffs executed the power deed in favour of the first defendant on 21.01.1988. During continuance of power, the first defendant sold the property to the 2nd defendant on 03.04.1992. Subsequently, the 2nd defendant sold a portion of the suit property to the 3rd defendant on 25.11.1996. The execution of power deed by the plaintiffs in favour of the first defendant was not disputed by the plaintiffs. The sale deeds were executed, pursuant to the general power deed in the year 1992 to 1997 and the present suit has been filed, challenging the sale deeds only on 13.03.2016. The knowledge of the agent shall be treated as knowledge of the principal. Therefore, the



plaintiffs are not entitled to plead that they had no knowledge about the sale deed executed by their agent, the first defendant in favour of the 2nd defendant. Hence, the suit filed by the plaintiffs in the year 2016, nearly after 18 years from the date of execution of sale deed is illusory one and hence, the suit is barred by limitation. In order to bring the suit within limitation, it was claimed by the plaintiffs that they acquired knowledge about the execution of sale agreements only after getting encumbrance certificate and immediately thereafter, they convened a panchayat on 16.10.2015 to settle the issue. However, the plaint document No.6 would indicate that encumbrance certificate was taken by the plaintiffs only on 15.03.2016, subsequent to the alleged panchayat. The plaintiffs convened the panchayat to settle the issue, even prior to the encumbrance certificate during October 2015. Therefore, the cause of action pleaded in the plaint, as if they acquired knowledge about the suit sale deeds only after getting encumbrance certificate is illusory cause of action made for the purpose of bringing the suit within limitation.

8. The Apex Court in its decision in T. Arivandandam Vs. T.V. Satyapal and others reported in AIR 1977 SC 2421 held that if the cause of action pleaded in the plaint is illusory, the plaint can be rejected. In the case on hand, first of all the plaintiffs are not entitled to plead ignorance of the act done by the agent. Secondly, the pleadings of



the plaintiffs, as if they acquired knowledge only from the date of getting encumbrance certificate appear to be illusory one. Further, in the cancellation deed executed by the plaintiffs dated 08.03.2016, they clearly ratified all the acts done by the attorney by virtue of general power of attorney. In such circumstances, the suit filed by the plaintiffs seeking declaration that the Sale Deeds executed by the Defendants 1 and 2 were null and void appears to be barred by limitation, based on the averments found in the Plaint and Plaint documents. If the prayer sought for by the plaintiffs is held to be barred by limitation, the Plaintiffs are not entitled to seek declaration of title and Permanent injunction. Therefore, the entire plaint is liable to be rejected. The Trial Court, without appreciating the above position, erroneously dismissed the application.”

8.Per contra, the learned counsel for the respondent submitted that, in a suit for partition, the question of limitation cannot be decided at the threshold. It is further submitted that the Will dated 12.09.1997, allegedly executed by Chellammal @ Mariammal, being an unregistered document, raises serious doubts regarding its genuineness. Such issues, including the circumstances surrounding the execution of the Will, can be adjudicated only upon full-fledged trial.



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9.It is also contended that the issue of limitation involves a mixed question of law and fact, which requires consideration of evidence. In support of this submission, reliance was placed on the judgment of the Hon'ble Full Bench of Honourable Supreme Court of India, in the case of Chhotanben & Anr. v. Kiritbhai Jalkrushnabhai Thakkar & Ors. reported in (2018) 6 SCC 422, wherein it has been held that questions relating to limitation are ordinarily be decided at the stage of trial.

10.Further reliance was placed on the judgment of the Hon'ble Supreme Court in the case of Raghwendra Sharan Singh Vs. Ram Prasanna Singh (dead) by Legal Representatives reported in (2020) 16 SCC 601, wherein it has been reiterated that, for the purpose of rejection of plaint, only the averments made in the plaint are to be considered. The relevant portions are extracted hereunder:

“9. Now, so far as the application on behalf of the original plaintiff and even the observations made by the learned trial Court as well as the High Court that the question with respect to the limitation is a mixed question of law and facts, which can be decided only after the parties lead the evidence is concerned, as observed and held by this Court in Sham Lal N.V.Srinivas Murthy as well as Ram Prakash Gupta



(supra), considering the averments in the plaint if it is found that the suit is clearly barred by law of limitation, the same can be rejected in exercise of powers under Order 7 Rule 11(d) of the CPC.

10. In view of the above and for the reasons stated above, we are of the opinion that both the High Court as well as the learned trial Court have erred in not exercising the powers under Order 7 Rule 11 of the CPC and in not rejecting the plaint in exercise of powers under Order 7 Rule 11 of the CPC. For the reasons stated above, the impugned judgment and order passed by the High Court as well as the trial Court cannot be sustained and the same deserve to be quashed and set aside. Consequently, the impugned judgment and order passed by the High Court dated 12.03.2013 as well as the order passed by the Munsif, Danapur rejecting the Order 7 Rule 11 application filed by the original defendant are hereby set aside. Consequently, the application submitted by the appellant herein? original defendant to reject the plaint under Order 7 Rule 11 of the CPC is hereby allowed and the plaint, being Title Suit No. 19 of 2003 is hereby rejected. The present appeal is allowed accordingly in terms of the above. No costs.”

11. On a perusal of the plaint, it is seen that the entire dispute revolves around the alleged Will, which is an unregistered document and whose validity



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requires adjudication during trial. Para 8 of the plaint is extracted hereunder:

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“ 8. Therefore, the Plaintiff and the Defendant No's. 7 to 9, sent a Lawyer Notice dated 08.03.2017 through their counsel to Defendant No's. 1 to 5 and said Mr. Sethu Ramalingam and thereby called upon them to agree for an amicable partition and separate possession of the Schedule Properties by metes and bounds within 15 days from the date of receipt of said notice. The Notice was duly served to the Defendant No's. 1 to 5 and said Mr. Sethu Ramalingam and thereafter, the Defendants 1 to 3 and the said Mr. Sethu Ramalingam sent a Reply Notice dated 17.03.2017 through their counsel with all false averments and allegations that there was a Will dated 12.09.1997 executed by said Mrs. Chellammal @ Mariammal during her life time with regard to the Schedule Properties and after her demise, as per the Will, the said Mr. Sethu Ramalingam and 3rd Defendant jointly inherited the Schedule Properties in equal moiety and thereafter jointly executed two Registered Settlement Deeds dated 03.02.2012 and 25.10.2012 in favour of the 2nd Defendant with regard to the Schedule Properties and as if the 2nd Defendant is in possession of the same. The said Will dated 12.09.1997 is a forged and fabricated one and the Registered Settlement Deeds dated 03.02.2012 and 25.10.2012 executed by the said Mr. Sethu Ramalingam and the 3rd Defendant on the basis of said Will are all ab initio void, and such Settlement Deeds will not bind upon the lawful share of the Plaintiff and



Defendants 7 to 9 over the Schedule of Properties. The Plaintiff denies all the averments and allegations made out in the said Reply Notice. The Lawyer Notice dated 08.03.2017 and the Reply Notice dated 17.03.2017 are all produced herewith. After that, said Mr.Sethu Ramalingam passed away intestate on July 2019 leaving behind his wife Mrs.Gopalavadivoo @ Rajam and his daughter C.Manju, the 6th Defendant as his legal heirs. The said Mrs.Gopalavadivoo @ Rajam also passed away intestate on 24.09.2021 leaving behind the 6th Defendant as her legal heir. Now, the Defendant No's.7 to 9 are not joint with the Plaintiff. Now, the Plaintiff and the Defendants are all in joint possession and enjoyment of the Schedule Properties and the Defendants are evading for an amicable partition and separate possession of the Schedule Properties. This conduct on the part of the Defendants is unjust and illegal. Therefore, Plaintiff is filing this suit for Partition and separate possession of Plaintiff's 1/28 share over the Schedule Properties and for other reliefs.”

12.In view of the above, this Court finds that the issues raised involve disputed questions of fact and cannot be decided at the threshold.

13.Accordingly, this Civil Revision Petition is dismissed as devoid of merits. Consequently, connected miscellaneous petition is closed.



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

- 1.The Principal District Munsif, Tenkasi.
- 2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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N.SENTHILKUMAR, J.

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