



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.06.2017

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
C.R.P. (PD) (MD) No.508 of 2017

WEB COPY

Anna Mariammal (died)

1. Pathrose

2. Joseph Babin

3. Darwin Jose

4. Starlin Sophy

... Petitioners/Plaintiffs

vs.

1. The District Collector,
Kanyakumari District, Nagercoil, Nagercoil Village,
Agasteeswaram Taluk, Kanyakumari District.

2. The District Revenue Officer,
Kanyakumari District, Nagercoil, Nagercoil Village,
Agasteeswaram Taluk, Kanyakumari District.

3. The Revenue Divisional Officer,
Padmanabhapuram Division, Thuckalay, Kalkulam Taluk,
Kanyakumari District.

4. The Tahsildar,
Kalkulam Taluk, Thuckalay,
Kanyakumari District.

5. The Village Administrative Officer,
Eraniel Village, Kalkulam Taluk,
Kanyakumari District.

6. Mohan ... Respondents/Respondents/Defendants 1 to 6

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the learned Principal District Munsif Court, Eraniel to number the interlocutory application in unnumbered IA of 2016 in O.S.No.157 of 2010 dated 06.12.2016 and allow this civil revision petition.

For Petitioners : Mr.R.Russel Raj

ORDER

Pending suit, the Trial Court has framed the additional issue
<https://hcservices.ecourts.gov.in/hcservices/> namely, whether the Court has jurisdiction to try the suit?
Therefore, the plaintiffs have filed an application to take up



that issue as preliminary issue and decide the suit. The said application filed under Order 14 Rule 2(2) and Section 151 of CPC has been returned on the ground that how the petition is maintainable? The revision petitioners/plaintiffs have re-presented the application stating that the question of jurisdiction can always be raised as a preliminary issue under Order 14 Rule 2(2) of CPC and the suit could be disposed of on that question. However, again, the Trial Court has returned the petition stating that previous defect not rectified.

2. Aggrieved by the said return, the present revision petition is filed on the ground that the impugned return of the Trial Court is passed contrary to law without considering the fact that the additional issue is purely a question of law, not a mixed question of law. Therefore, the Trial Court ought to have entertained the application and dispose the suit taking the jurisdiction issue as preliminary issue. However, the Trial Court has just restated that previous defect not complied with, without even assigning any reason, which is bad in law.

3. This Court on perusal of the impugned return is *prima facie* satisfied that while returning the application, the Trial Court ought to have assigned reason. Since no reason is assigned even after re-presenting the petition quoting that under Order 14 Rule 2(2) of CPC, question of jurisdiction can always be decided as a preliminary issue, the impugned return order is set aside. The revision petitioner is directed to re-present the application and the Trial Court is directed to entertain the same in accordance with law. Since the time for re-presentation of I.A. is expired, time is extended up to 10.07.2017.

4. With the above direction, this Civil Revision Petition is disposed of. No costs.

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar(C.S.)

TO

1. The District Collector,
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Kalkulam Taluk, Thuckalay,
Kanyakumari District.

5.The Village Administrative Officer,
Eraniel Village, Kalkulam Taluk,
Kanyakumari District.

+1 CC TO MR.R.RUSSEL RAJ, ADVOCATE,SR NO.62125

COPY TO:

THE SECTION OFFICER,
V.R.SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

mrn/vsg
MAS/MR-KKR/SAR2:06.07.2017:3P-8C

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