

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 13TH DAY OF JULY 2018

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

A.No.590 of 2018  
in  
C.S.No.410 of 2018  
and  
O.A.Nos. 640 to 642 of 2018  
and  
O.A.Nos.506 and 507 of 2017  
and  
O.A.No.458 and 459 of 2018  
in  
C.S.No.288 of 2018  
and  
A.Nos. 4634 of 2018 and A.No. 7176 of 2017  
and A.No. 3802 of 2016  
in  
C.S.No.645 of 2015  
and  
A.No.2887 of 2016  
in  
C.S.No.785 of 2015

C.S.No.785 of 2015:

Dr.S.Selvakumar,  
S/o.Dr.A.B.Selvarangan,  
No.C-37, Anna Nagar,  
Chennai 600 102

...Plaintiff

-vs-

1.Dr.A.B.Selvarangan,  
S/o.Late A.G.Balasubramani Mudaliar,  
No.C-37, Anna Nagar,  
Chennai 600 102

2.S.Balasubramani,  
S/o.Dr.A.B.Selvarangan,  
No.C-37, Anna Nagar,  
Chennai 600 102

3.Sahana Selvakumar,  
D/o.Dr.Selvakumar,  
E-51, 3<sup>rd</sup> Street  
Anna Nagar, Chennai 600 102

4.Siddharth Selvakumar,  
S/o.Dr.S.Selvakumar,  
E-51, 3<sup>rd</sup> Street  
Anna Nagar,  
Chennai 600 102

5.B.Sudiksha,  
Minor Rep.by her father and next friend,  
D/o.S.Balasubramani,  
No.C-37, Anna Nagar  
Chennai 600 102

6.B.Meghana,  
D/o.S.Balasubramani,  
No.C-37, Anna Nagar  
Chennai 600 102

...Defendants

**A.No.2887 of 2016:**

Application praying that this Hon'ble Court be pleased to pass an order directing the respondents herein to deposit the rental income, proceeds and usufruct of any nature whatsoever, realized from the Schedule A and Schedule B properties in a designated escrow account to be operated with the consent of the petitioner and the first and second respondents jointly pending disposal of the above suit.

C.S. No.645 of 2015

S.Balasubramani  
S/o.Dr.A.B.Selvarangam,  
No.37, Block C, Anna Nagar East,  
Chennai 600 102.

... Applicant/Plaintiff  
(in both Original application)

-Versus-

1.Dr.A.B.Selvarangan  
S/o.A.G.Balasubramani Mudaliar

2.Tmt.S.Rajalakshmi  
W/o.Dr.A.B.Selvarangan

the defendants 1 & 2 residing at  
No.37, Block C, Anna Nagar East,  
Chennai 600 102.

3.Dr.S.Selvakumar  
S/o.Dr.A.B.Selvarangan  
F-120, Anna Nagar East, Chennai-600 102.

.. Respondents/Defendants  
(in both Original application)

A.No.7176 of 2017:

S.Balasubramani  
S/o.Dr.A.B.Selvarangan,  
No.37, Block C, Anna Nagar East,  
Chennai 600 102.

...Applicant

-vs-

Tmt.S.Rajalakshmi  
W/o.Dr.A.B.Selvarangan  
residing at No.37, Block C,  
Anna Nagar East,  
Chennai-600 102.

...Respondent/2<sup>nd</sup> Defendant

Application praying that this Hon'ble Court be pleased to pass an order directing return of the Counter claim filed by the Respondent/2<sup>nd</sup> Defendant to the Respondent/2<sup>nd</sup> Defendant in the above C.S.No.645 of 2015 to be presented before the appropriate Civil Court which is having pecuniary jurisdiction to entertain the counter claim as a suit.

**A.No.4634 of 2018 and A.No.3802 of 2016:**

1.Tmt. S.Rajalakshmi,  
W/o.Dr.A.B.Selvarangan,  
No.37, Blcok C, Anna Nagar East,  
Chenani 600 102

2.Dr.S.Selvakumar,  
S/o.Dr.A.B.Selvarangan,  
F-120, Anna Nagar East,  
Chennai 600 102

...Applicants/Defendants 2 and 3

-vs-

1.S.Balasubramani,  
S/o.Dr.A.B.Selvarangan,  
No.37, Blcok C, Anna Nagar East,  
Chennai 600 102

2.Dr.A.B.Selvarangan,  
S/o.A.G.Balasubramamani Mudaliar,  
No.37, Blcok C, Anna Nagar East  
Chennai 600 102

...Respondent/Defendants

**A.No.4634 of 2018:**

Application praying that this Hon'ble Court be pleased to examine Tmt.S.Rajalakshmi, the 1<sup>st</sup> Applicant/2<sup>nd</sup> Defendant as a witness DE BENE ESSE before the examination of the 1<sup>st</sup> Respondent/Plaintiff or other Defendants in the above suit.

**A.No.3802 of 2016:**

Application praying that this Hon'ble Court be pleased to reject the above plaint in C.S.No.645 of 2015 with exemplary costs.

**C.S. No.288 of 2018**

Dr.S.Selvakumar,  
S/o.Dr.A.B.Selvarangan,  
37, Block-C, Anna Nagar East,  
Chennai-600 102.

... Applicant/Plaintiff

(in O.A. No.458 of 2018)

-Versus-

1. Dr.A.B.Selvarangan,  
S/o.A.G.Balasubramamani Mudaliar,
2. Mr.S.Balasubramani,  
S/o.Dr.A.B.Selvarangan,  
1 & 2 are at No.37, Block-C,  
Anna Nagar East,Chennai-600 102

... Respondents/Defendants  
(in O.A. No.458 of 2018)

**O.A. No.458 of 2018:-**

Original Application praying that this Hon'ble Court be pleased to grant an ad interim injunction restraining the respondents their men, agents or anybody claiming under or through them from alienating or in any manner interfering or

dealing with the schedule A, B, C, D, E & F properties morefully described schedule hereunder pending disposal of the suit.

O.A. No.459 of 2018:-

Dr.S.Selvakumar,  
S/o.Dr.A.B.Selvarangan,  
37, Block-C, Anna Nagar East,  
Chennai-600 102. .... Applicant/Plaintiff

-Versus-

1. Dr.A.B.Selvarangan,  
S/o.A.G.Balasubramani Mudaliar,
2. Mr.S.Balasubramani,  
S/o.Dr.A.B.Selvarangan,  
1 & 2 are at No.37, Block-C,  
Anna Nagar East, Chennai-600 102... Respondents/Defendants
3. The Manager,  
Indian Bank, Kilpauk Branch,  
No.103, New Avadi Road,  
Kilpauk, Chennai-600 010. .... 3rd Respondent

Original Application praying that this Hon'ble Court be pleased to grant an order of mandatory injunction directing the 3rd respondent to freeze the HUF Bank account maintained in account No.449379383 held in Indian Bank, Kilpauk Branch, No.103, New Avadi Road, Kilpauk, Chennai-600 010.

O.A.No. 506 of 2018

Dr.S.Selvakumar,  
S/o.Dr.A.B.Selvarangan,  
37, Block-C, Anna Nagar East,  
Chennai-600 102. ... Applicant/Plaintiff

-Versus-

1. Dr.A.B.Selvarangan,  
S/o.A.G.Balasubramani Mudaliar,

2. Mr.S.Balasubramani,  
S/o.Dr.A.B.Selvarangan,  
1 & 2 are at No.37, Block-C,  
Anna Nagar East,Chennai-600 102.

:Respondents 1 and 2/  
Defendants 1 and 2

3. Parthasarathy  
Flat No.1A  
No.129/64, Harrington Road,  
Chennai 600 030.

4. S.Thanigai Arasu  
Flat No.1B  
No.129/64, Harrington Road,  
Chennai 600 030.

5. S.Renuka Devi  
Flat No.1C, No.129/64,  
Harrington Road, Chennai 600 030.

6. P.Kamakshi  
Flat No.2A, No.129/64,  
Harrington Road, Chennai 600 030.

7. T.Shanmuga Raj  
Flat No.2B, No.129/64,  
Harrington Road, Chennai 600 030.

8. Abraham Varghese  
Flat No.2C, No.129/64,  
Harrington Road, Chennai 600 030.

9. T.V.Subramaniam  
Flat No.3A, No.129/64,  
Harrington Road, Chennai 600 030.

10. Rajini Naveen  
Flat No.3B, No.129/64,  
Harrington Road, Chennai 600 030.

11. A.Lalitha  
Flat No.3C, No.129/64,  
Harrington Road, Chennai 600 030.

12. Shop Radhika Managing  
Director Vaya in  
No.126/64, Harrington Road,  
Chennai 600 030.

:Respondents 3 to 12/Tenants

Original Application praying that this Hon'ble Court be pleased to grant a mandatory injunction direct the respondent 3 to 12 to deposit their share of judges summons schedule hereunder to the credit of the C.S.No.288 of 2018 pending disposal of the suit.

**O.A.Nos. 507 of 2018**

Dr.S.Selvakumar,  
S/o.Dr.A.B.Selvarangan,  
37, Block-C, Anna Nagar East,  
Chennai-600 102.

... Applicant/Plaintiff

-Versus-

1. Dr.A.B.Selvarangan,  
S/o.A.G.Balasubramani Mudaliar,

2. Mr.S.Balasubramani,  
S/o.Dr.A.B.Selvarangan,  
1 & 2 are at No.37, Block-C,  
Anna Nagar East, Chennai-600 102.

: Respondents 1 and 2/Defendants 1 and 2

3. The Manager  
Indian Bank, Kilpauk Branch,  
No.103, New Avadi Road,  
Kilpauk, Chennai 600 010.

: 3rd respondent/  
3rd respondent

Original Application praying that this Hon'ble Court be pleased to grant an order of mandatory injunction directing the 3rd respondent to submit statement of accounts for the last 7 years of the HUF Bank Account maintained in account No. 449379383 including the details of the Fixed Deposits in the name of HUF held in Indian Bank, Kilpauk Branch, No.103, New Avadi Road, Kilpauk, Chennai 600 010.

**O.A.Nos. 640 to 642 of 2018**

Dr.S.Selvakumar,  
S/o.Dr.A.B.Selvarangan,  
37, Block-C, Anna Nagar East,  
Chennai-600 102.

... Applicant/Plaintiff

-Versus-

1. Dr.A.B.Selvarangan,  
S/o.A.G.Balasubramani Mudaliar,

2. Mr.S.Balasubramani,  
S/o.Dr.A.B.Selvarangan,  
1 & 2 are at No.37, Block-C,  
Anna Nagar East, Chennai-600 102.

: Respondents 1 and 2/Defendants 1 and 2

3. The Marine Products Export  
Development Authority  
Ministry of Commerce & Industry  
Government of India) AH-125,  
4th Street, 8th Main Road,  
Shanthi Colony, Anna Nagar,  
Chennai 600 040. : 3rd respondent/Tenant

4. The Manager  
Indian Overseas Bank,  
Anna Nagar East Branch,  
1-28, First Avenue, Anna Nagar, East,  
Chennai 600 102. : 4th respondent

**O.A.No. 640 of 2018**

Original Application praying that this Hon'ble Court be  
pleased to grant mandatory injunction directing the 3rd  
respondent to deposit the rent of the judges summons schedule  
A property to the credit of the C.S.No.288 of 2018 pending  
disposal of the suit.

**O.A.No. 641 of 2018**

Original Application praying that this Hon'ble Court be  
pleased to grant mandatory injunction to the 4th respondent  
to submit statement of accounts for SB a/c No. 12521 standing  
in the name of the 1st respondent for the last 7 years.

**O.A.No. 642 of 2018**

Original Application praying that this Hon'ble Court be  
pleased to grant mandatory injunction directing the 4th  
respondent not to renew the loan facility based on equitable  
mortgage of the property more fully described in Judges  
summons schedule B property after the expiry of the mortgage

hereunder pending disposal of the suit.

**C.S. No.410 of 2018**

Dr.S.Selvakumar,  
Proprietor of the M/s.Selvarangam Hospital,  
37, Block-C, Anna Nagar East,  
Chennai-600 102. ... Applicant/Plaintiff

-Versus-

1. Dr.A.B.Selvarangan,
2. S.Balasubramani,  
1 & 2 are at No.37,  
Block-C, Anna Nagar East,  
Chennai-600 102.
3. V.S.Velayutham,  
No.36, I Block, 4th Street,  
Anna Nagar East,  
Chennai-600 102.
4. S.Savithri,  
E51, 3rd Street, Anna Nagar,  
Chennai-600 102.
5. B.Srilekha,  
No.37, Block-C, Anna Nagar East,  
Chennai-600 102. ... Respondents/Defendants

**O.A. No.590 of 2018:**

Original Application praying that this Hon'ble Court be pleased to grant an ad interim injunction restraining the respondents, their men, agents or anybody claiming under or through them from disturbing the peaceful possession and running of the M/s.Selvarangam Hospital at the schedule mentioned properties morefully described in the Judges Summons schedule pending disposal of the suit.

These Applications coming on this day before this court for hearing the court made the following order:-

The Civil Suit in C.S.No.288 of 2018 has been filed for declaration, that the schedule A, B, C, D, E & F properties are HUF properties. O.A.Nos.458 & 459 of 2018 have been filed and on prima facie satisfying with the submissions of the counsel, this Court granted an interim order on 28.04.2018.

2.It is now brought to the notice of this Court by other side that there are many other suits are pending in respect of the suit properties before this Court. The above suits have been suppressed by the plaintiff. The Civil Suit in C.S.No.645 of 2015 is one such suit filed for partition by the second son of the first defendant. Similarly, the plaintiff has filed a suit in C.S.No.785 of 2015 for declaration, to declare the settlement deed executed by his father in favour of his own children and also his brother's children as null and void. Similarly, he has filed another suit in C.S.No.410 of 2018 seeking permanent injunction, restraining the defendants from interfering with the peaceful possession and running of the hospital. Apart from that he has also filed the above C.S.No.288 of 2018 for declaration to declare that the properties are HUF properties.

3.It is to be noted that while obtaining orders in O.A.Nos.458 & 459 of 2018 in C.S.No.288 of 2018 in applications stage, the pendency of the other suits and the

nature of the disputes between the family members have been suppressed and not brought to the notice of this Court. Therefore, this Court of the view that without going into the merits of the case very and from the factum of suppression of the earlier suits, itself ground for vacating interim order. Therefore, the order passed in O.A.Nos.458 & 459 of 2018 on 28.04.2018 is vacated.

4.However, taking into consideration the fact that the plaintiff in C.S.No.410 of 2018 is running a hospital and he is a doctor by profession, other family members shall not interfere his possession in running a hospital till the disposal of the suit. All other applications in all suits no orders necessary, as the right of parties to be decided only in suit on proper evidence. Accordingly, all other applications in C.S.No.288 of 2018, C.S.No.645 of 2015 and C.S.No.785 of 2015 are closed.

5.The parties are directed to file their pleadings and written statement on or before 30.07.2018, so that the trial in all the suits can be expedited. Post the suits alone on 30.07.2018.

6.The applications filed to deposit the rent in respect of the properties said to be purchased out of HUF family members are also closed. The issue involved is whether the

properties are HUF properties or individual properties and it is a matter for evidence. At this application stage, this Court cannot make roving enquiry without any evidence.

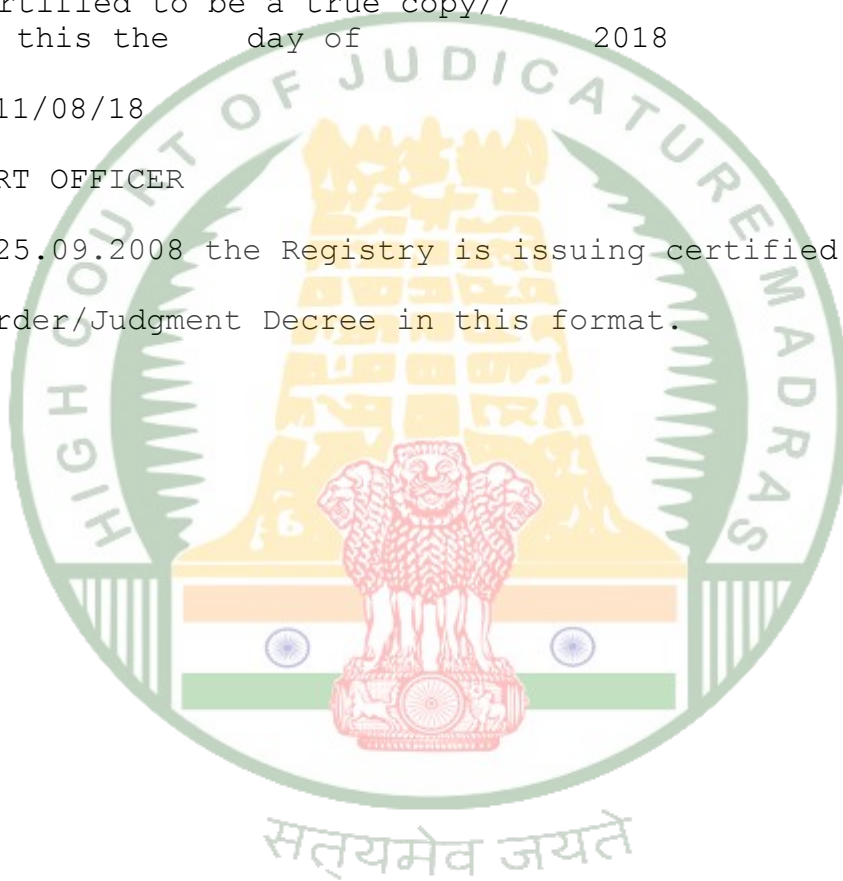
Sd/-N.S.K.J  
13.07.2018

//Certified to be a true copy//  
Dated this the        day of        2018

jj 11/08/18

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.



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