



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) .No.1451 of 2016 and
C.M.P. (MD) No.7115 of 2016

The Managing Director,
Peniel School,
Vembarali,
Pudur Village, Natham.

... Petitioner/1st Respondent/
1st Defendant

Vs.

C.Karuppannan (died)

1. Thiraviyam
2. Kasinathan
3. Chinnaiah
4. Thotthan
5. Mookkan
6. Periyakodanki
7. Packiyam
8. Chinnazhaki
9. Andi
10. Pachammal
11. Pacha Mannan
12. Mannan Kodanki
13. Parvathi
14. K.Kalanjiyam
15. Indira
16. Periakaruppi
17. Karthi
18. Devika
19. Krishnan

... Respondents/Petitioners/
Plaintiffs

20. Pandian
21. Pelinta
22. Pacha Mannan

... Respondents 20 to 22/Respondents 2 to 4/
Defendants 2 to 4

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order passed in I.A.No.91 of 2008, dated 06.12.2012 on the file of the learned District Munsif cum Judicial Magistrate, Natham and allow the Civil Revision petition.



For Petitioner : Mr.T.S.Mohamed Mohideen
For R-2, R-3
& R-5 to R-9 &
R-11 to R-19 : No appearance.
For R-1, R-4, R-10,
R-20 & R-21 : Dismissed vide order
dated 12.07.2018.

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O R D E R

The first respondent in O.S.No.91 of 2008 on the file of the District Munsif Court, Natham, is the Revision petitioner herein. It is a suit for declaration that the second item of the suit property is a common pathway. The relief of permanent injunction has also been sought. The first plaintiff, Thiru.Karuppannan is said to have passed away on 18.09.2009. An application was taken out for bringing his legal heirs on record. The same was withdrawn. Thereafter, without disclosing the factum of filing of such interlocutory application, the present Interlocutory application came to be filed. The Interlocutory application has been filed by the other plaintiffs for bringing the legal heirs of the first plaintiff on record. The same was dismissed by the Court below. But there was a delay in filing of such application. To condone the delay, I.A.No.91 of 2011 was filed. The said application was allowed by the Court below. Questioning the same, the Civil Revision petition has been filed.

2. The learned counsel appearing for the Revision petitioner reiterated the grounds set out in the memorandum. In particular, he stressed the fact that I.A.No.233 of 2010 originally was dismissed as withdrawn. He also pointed out that there is no whisper about I.A.No.233 of 2010 in the affidavit filed in support of the petition in I.A.No.91 of 2011. He pointed out that the suit was filed by the first plaintiff. He therefore faulted the impugned passed by the Court below. Even though all these contentions raised by the learned counsel appearing for the Revision petitioner are sound and acceptable, this Court does not propose to interfere with the order impugned passed by the Court below, because there are rather technical in nature. As many as 14 persons have joined together and filed the suit in question. The first plaintiff alone has passed away. Therefore, in any event, the Revision petitioner will have to contest proceedings, since the other plaintiffs are alive. Merely because, steps were not properly taken to bring on the legal heirs of the deceased first plaintiff on record, the suit cannot be allowed to be



3. The Civil Revision petition stands dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

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Sd/-
Assistant Registrar(AD-II)

/TRUE COPY/

Sub Assistant Registrar(CS-III)

To

1. The District Munsif cum Judicial Magistrate,
Natham.

2. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1. C.C. to M/S.T.S.Mohamed Mohideen, Advocate SR.No. 84028

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