



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.09.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHANC.R.P. (MD).No.1890 of 2016 and
C.M.P. (MD)No.9035 of 2016

Balasubramaniam(Died)

1. B.Kollimalai
2. B.Chandrasekar
3. N.Indira
4. Sivagami

...Petitioners/
LRs of 1st petitioner/
LRs of 1st plaintiff**Vs.**

1. Nattanmai Nallathambi @ C.P.Chinnasami
2. Nattanmai Rakki Nadar @ S.Mascow
3. Nattanmai Ponnulinga Nadar @ P.Gnanagurusami
4. P.P.C.S.Ramesh Babu
5. N.Poomandalam

*(For themselves and as representative of
Thirumangalam Pandiyagula
Kshatria Nadars)*...Respondents 1 to 5/
Respondents 1 to 5/
Defendants 1 to 5

6. Sivakami Ammal
7. Kaliyammal Parasakthi
8. Shanmughavalli
9. M.M.S.Ramesh Babu Nadar
- 10.D.Sankaralinga Nadar

*(As petitioners 6 to 10 are co-defendants
along with the petitioners in the suit,
notice to them may be
dispensed with)*...Respondents 6 to 10/
Petitioners 2 to 6/
Plaintiffs 2 to 6*(Cause title accepted vide order dated 22.08.2016 in
C.M.P. (MD)No.7882 of 2016 in C.R.P. (MD)No.SR31781 of 2016)*

PRAYER : Civil Revision Petition is filed under Article 227 of the
Constitution of India, to pass an order setting aside the order
dated 14.03.2016 passed in I.A.No.1149 of 2015 in O.S.No.421 of



2004 by the District Munsif Court, Palani, thereby allowing the Civil Revision petition with costs.

For Petitioners : Mr.S.Anand Chandrasekar,
for M/s.Sarvabhauman Associates.

For R-4 & R-5 : Mr.S.Madhavan,
for Mr.S.Srinivasa Raghavan.

For R-1 to R-3 : No appearance.

O R D E R

O.S.No.470 of 2002 was filed by respondents 1 to 5 herein before the Subordinate Court, Palani, seeking certain reliefs. In the said suit, the plaintiffs filed I.A.No.1149 of 2015 for taking up the issue of *res judicata* as a preliminary issue. The Court below by order dated 14.03.2016 dismissed the said application. Questioning the same, the Civil Revision petition has been filed.

2. Heard the learned counsel on either side.

3. The Court below rightly observed that only a pure issue or law can be taken up as a preliminary issue. After going through the pleadings filed by either side, the Court below came to the conclusion that factual aspects are involved. Therefore, in the very nature of things, they cannot be taken up as a preliminary issue. In that view of the matter, the Court below dismissed the said application filed by the plaintiffs.

4. The Court below has in fact observed that the Revision petitioners' defence is intact and that the same will be decided in the main suit. Therefore, no prejudice will be caused to the Revision petitioners. The order impugned in this Civil Revision petition does not warrant any interference. There is no merit in this Civil Revision petition.

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

Sd/-

Assistant Registrar (AS)

// True Copy //



To

1. The District Munsif,
Palani.

WEB COPY

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

+ 1 CC TO Ms.SARVABHAUMAN ASSOCIATES, IN SR NO.82618

+ 1 CC TO MR.S.MADHAVAN, ADVOCATE IN SR NO.83000

PMU

BU/RP/SAR-III :10.10.2018 : 3P/6C

C.R.P. (MD) .No.1890 of 2016
05.09.2018