



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.08.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRP (MD)No.1940 of 2016 (PD)

and

CMP(MD)No.9184 of 2016

V.Thirunavukkarasu (died)

1.V.Kamala

2.T.Mathu Eswari

3.T.Sruthi Mayura

4.Mithun Surya

5.Minor T.M.Srinithi Mayura

(The fifth petitioner rep.through
her mother and natural guardian
through the second petitioner)

... Petitioners

Vs.

1.Kalimuthu

2.Kaleeswaran

3.Kaleeswari

4.Chinna Raja

... Respondents

Prayer : This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order made in I.A.No.866 of 2014 in O.S No.695 of 2013 on the file of the Principal District Munsif Court, Madurai Town dated 02.07.2016.

For Petitioners : Mr.D.Senthil

For Respondents : Mr.S.Deenadayalan for R1

R2 to R4 - No appearance

**ORDER**

The respondents herein filed OS.No.695 of 2013 before the Principal District Munsif Court, Madurai seeking the relief of permanent injunction. They filed I.A.No.866 of 2014 for incorporating the relief of declaration also. The said I.A was allowed by order dated 02.07.2016. The correctness of the order is assailed by the defendants in this Civil Revision Petition.

2.Heard the learned counsel on either side.

3.The learned counsel for the revision petitioner placing reliance on the decision of this Court reported in **2011 (2) CTC 28 (N.Lalitha vs. Manujothi Ashramam)** contended that in this case the relief sought for by the respondents in the I.A stood time barred and that therefore, the court below ought not to have allowed the same.

4.However, as rightly pointed out by the learned counsel for the respondent, the Hon'ble Supreme Court in the decision reported in **(2004) 6 SCC 415 (Pankaja v. Yellappa)** held that there is no absolute rule that in other cases where relief is barred because of limitation an amendment should not be allowed.

5.That apart, it is seen that the amendment was sought to be introduced at the pre-trial stage. Therefore, the court below was right in adopting a liberal approach. However, all the contentions



including the limitation available to the revision petitioner are left open and they shall be adjudicated in the main suit.

6. With this observation, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

Skm

To

1. The Principal District Munsif Court, Madurai.

+1cc to D. Senthil Advocate in SR No. 78340

+1cc to S. Deenadhayalan in SR No. 78538

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NM/SKN/SA 3/12.09.18/3P/4C