



C.R.P. (MD) No. 623 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.01.2026

CORAM

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

C.R.P. (MD) No. 623 of 2024

and

C.M.P(MD)No.3087 of 2024

1.P.Gnanasekaran

2.S.Velavan

... Petitioners

Vs.

S.R.Ganapathy (died)

1.G.Vigneshkumar

2.V.Sathurusangaravel

3.S.Anandavalli

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records in pursuance to the fair and decreetal order passed by the Additional Sub-Court, Madurai in I.A. No. 244 of 2022 in O.S. No. 188 of 2007 dated 19.12.2023 and it has to be set aside on devoid of merits.

For Petitioners : Mr.V.Srinivasan
For R1 : Mr. R.Narayanan



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ORDER

This Civil Revision Petition under Article 227 of the Constitution of India has been filed to set aside the order passed by the Additional Sub-Court, Madurai (hereinafter referred to as 'the Trial Court' for short) in I.A. No. 244 of 2022 in O.S. No. 188 of 2007 dated 19.12.2023.

2. Heard Mr. V.Srinivasan, Learned Counsel for the Petitioners and Mr. R.Narayanan, Learned Counsel for the First Respondent and perused the materials placed on record apart from the pleadings of the parties.

3. Originally, the suit in O.S. No. 399 of 1999 had been filed by one Muthuvinayagasundaram against D.Shanmugapillai, V.Sathurusingaravel, S.Anandavalli, P.Gnanasekaran and S.Velavan, in which judgment and decree dated 23.01.2003 had been passed granting injunction in favour of Muthuvinayagasundaram. However, the said judgment and decree of the Trial Court was set aside in an appeal filed by the Fourth and Fifth Defendants in that suit by judgment and decree dated 04.10.2005 in A.S. No.



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72 and 117 of 2003 by the I Additional Sub-Court, Madurai and Second Appeals had been filed by Muthuvinayasundaram against the said order in S.A. (MD) No. 566 and 588 of 2006, which were dismissed as abated on 27.07.2012 on the death of the said Muthuvinayagasundaram, as no legal heirs or dependants of Muthuvinayagasundaram were brought on record till that time.

4. In the meanwhile, one S.R.Ganapathi purchased the subject property from the said Muthuvinayagasundaram by a sale deed dated 26.06.2003 under document No. 1468/2003. As stated by the Petitioner, it is agreed that the said S.R.Ganapathy died on 17.05.2015 and his son G.Vigneshkumar claimed title to the property by way of a Will. The said S.R.Ganapathy had filed a suit in O.S. No. 188 of 2007 before the Trial Court claiming the relief of declaration of title to the suit property and consequential injunction and it has been informed that his son namely, G.Vigneshkumar has been brought on record to continue the suit as plaintiff therein.



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5. The said G.Vigneshkumar had also filed an application in C.M.P. Nos. 2363 and 2443 of 2023 to set aside the abatement and continue the Second Appeal in S.A. (MD) Nos. 566 and 588 of 2006 and the said applications were dismissed by order dated 27.06.2023 and the said order had attained finality as on date in the absence of any appeal preferred against the same. In the meanwhile, the further proceedings had been taken place in O.S. No. 188 of 2007 and issues have been framed. It appears that an application to reject the plaint in the suit was taken out in I.A. No. 152 of 2013 by the First and Second Defendants. It was dismissed on 09.01.2014 and the said order was confirmed by this Court by order dated 24.09.2024 in C.R.P. (MD) No. 1668 of 2014. Thereafter, the Third and Fourth Defendants have filed an application in I.A. No. 244 of 2022 to determine the preliminary issue relating to res judicata, which was rejected by the impugned order.

6. It is not in dispute that the father of G.Vigneshkumar, namely S.R.Ganapathy had filed a suit specifically referring to the earlier suit in O.S.



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No. 399 of 1999 in its plaint, wherein he had got a decree and injunction, though he had not given any particulars relating to the subsequent proceedings. Therefore, the crucial question arises relating to res judicata, which is the question of law falling under Order XIV Rule 2 (2) (b) of the Code of Civil Procedure. The Trial Court had committed an impropriety in not framing the same as preliminary issue and rejecting such claim by the impugned order. Therefore, the same is set aside, since the matter is relating to res judicata, which is to be determined as a preliminary issue.

7. In view of the above discussion, the impugned order is set aside and the Trial Court shall frame an issue in terms of Rule 2 (2) (b) of Order 14 of the Code of Civil Procedure as to whether the claim is barred by any law including res judicata and Order II Rule 2 of the Code of Civil Procedure. Therefore, the trial Court shall determine the preliminary issue and depending upon its outcome further proceedings shall take place



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In the result, the Civil Revision Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

21.01.2026

NCC : Yes/No
Index : Yes/No
Internet : Yes/No

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To

- 1.The Additional Sub-Court, Madurai.
- 2.The Registrar (Judicial),
Madurai Bench of Madras High Court,
Madurai.



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N.SENTHILKUMAR, J.

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