

IN THE COURT OF THE DISTRICT MUNSIF, SULUR

Present : Tmt.M.Santhosham., B.Sc., B.L.,

District Munsif, Sulur

Thiruvalluvar year 2056 Visvavasu year, 6th day of Masi

Wednesday the 18th day of February 2026

I.A.No.9/2025

in

O.S.No. 74/2022

1. Saraswathi

2. Ramesh Kumar

... Petitioners/Plaintiffs

/VS/

1. Ranjani

2. N. Ravi

... Respondents/Defendants

This petition is coming on this day for final hearing before me in the presence of Mr.R.Prabakaran, Advocate for the Petitioners and Mr.T.A.Anandakumar, Advocate for the Respondents and upon perusing the records, and this court made the following:

ORDER

This petition filed by the petitioners u/O 14 Rule 5(2) R/W section 151 of CPC to Strike out the preliminary issues framed on limitation and res judicata in I.A.No.8/2025 and to direct that the suit O.S.No.74/2022 be proceeded with a full trial on all issues.

1. The brief averments of the affidavit filed by the petitioners as follows:

1.1. The 2nd Petitioner/ 2nd Plaintiff is the son of 1st Petitioner/ 1st Plaintiff. The suit in O.S.No.74/2022 has been filed by petitioners/plaintiffs for cancellation of deeds, permanent injunction and other remedies to protect their lawful possession and enjoyment of the suit schedule property inherited through

petitioners/plaintiffs family from late Ganapathy gounder. The defendants earlier filed I.A.No.3/2022 under O VII R 11 of CPC to reject the plaint on grounds of limitation and resjudicata. This court by order dated 21.03.2023 dismissed the said I.A., holding that “the limitation also to be decided only after examining detail oral and documentary evidence, it is also a mixed question of fact and law”.

1.2. The defendant challenged the said order in CRP (PD) No.2597/2023 before the Hon’ble High Court of Madras. The Hon’ble High Court, by order dated 13.08.2024, dismissed the revision and upheld that the issues require trial and evidence. The defendants then filed SLP (Civil) No.19983/2025 before the Hon’ble Supreme Court. The Hon’ble Supreme Court, by order dated 28.07.2025, dismissed the SLP with the observation” “However, these issues may be raised by the defendants in the course of the trial and if permissible in law, he may also request the trial court to frame preliminary issues on these two counts”. No trial has commenced in the suit. No new facts, documents or changed circumstances have been brought on record by the defendants since dismissed of I.A.No.3/2022.

1.3. Despite this, the defendants have filed I.A.No.8/2025 to re-agitate the very same issues of limitation and res judicata as preliminary issues. This court has allowed the said I.A and framed the issues. The framing of these preliminary issues is illegal, impermissible and an abuse of process because; a. The same issues were conclusively decided in I.A.No.3/2022 on merits and the order has attained finality after dismissal by High Court and Supreme Court. b. The defendants have not pleaded any new fact in I.A.No.8/2025, the affidavit is a mere reproduction of earlier grounds. c. The Supreme Court’s observation is conditional (“if permissible in law”)-it is not permissible to re-open settled adjudication. d. Order VII Rule 11 and Order XIV Rule 2(2) are distinct remedies. Rejection of plaint was already denied. Preliminary issues cannot be used as a second bite at the cherry. e. These are mixed questions of fact and law requiring full trial – as already held by this court.

1.4. Allowing these preliminary issues will delay justice, prejudice the plaintiffs, and defeat the purpose of trial. The petitioners/plaintiffs are in peaceful possession and entitled to a full hearing on merits. Hence, the petition is to be allowed.

2. The brief averments of Counter statement filed by the 1st Respondent and adopted by 2nd Respondent as follows:

2.1. The petition is false, frivolous and vexatious and not maintainable both in law and facts of the case. The respondents denies all the allegations stated in the petition except those are specifically admitted hereunder and put the petitioner into strict proof of the same. The present petition is not maintainable and ought not to have been numbered as per the order passed by the Hon'ble Supreme Court of India in SLP (Civil) No.19983/2025, dated 28.07.2025, wherein the petitioners/ 1st and 2nd defendants are directed to raise the points namely 1) Limitation and 2) Res judicata as preliminary issues, during trial.

2.2. Accordingly, the petitioners filed petitioner under Order 14 Rule 2(2) of CPC in I.A.No.8/2025 and was allowed by this court on 20.09.2025. Earlier order 7 Rule 11 of CPC petition in I.A.No.3/2022 was dismissed, before framing of issues regarding Limitation and Res judicata. Now the Hon'ble Supreme Court, permitted to decide the points after framing issues, i.e., as Preliminary issues, that too during trial. Hence, the earlier petition filed by the petitioners Under Order 7 Rule 11 of CPC and the petition filed under Order 14 Rule 2(2) of CPC are in two different aspects. The Order 7 Rule 11 of CPC was decided before framing of issues and even before the filing of the written statement by the defendants. But the preliminary issues are decided after filing of Written statement and framing of issues. So at the beginning of the trial the preliminary issues can be raised.

2.3. After the dismissal of I.A.No.3/2022, the petitioners preferred the

Civil Revision Petition before the Hon'ble High Court at Madras and the same was dismissed. Against the Hon'ble High Court order the petitioners preferred SLP in No.19983/2025, in which the petitioners are granted permission to raise the legal points regarding 1) Limitation and 2) Res – Judicata in the trial court during the trial. On the basis of the direction of the Hon'ble Supreme Court of India the Respondents/ 1st and 2nd defendants filed the petition Under Order 14 Rule 2(2) of CPC in I.A.No.8/2025 in which the respondents/plaintiffs also filed the counter statement and agitate the framing of additional issues regarding 1) Limitation and 2) Resjudicata. The petition in I.A.No.8/2025 was allowed on 20.09.2025 framing for preliminary issues.

2.4. If really the petitioners felt that they are aggrieved they ought to have preferred revision petition. But the petitioners did not do so for. Instead, now the petitioners have come forward with the present petition which is nothing but the like the counter statement in I.A.No.8/2025. The petition in I.A.No.9/2025 is not maintainable and ought not to have been numbered because instead of preferring revision in I.A.No.8/2025 the petitioners have com forward with the present petition which is liable to be dismissed. The petitioners/plaintiffs are not ready to obey the order of the Hon'ble Supreme Court of India. The petitioners/plaintiffs curtail the rights of the respondents/ 1st and 2nd defendants to exercise their rights granted by the Hon'ble Supreme Court of India. On the above stated grounds the above petition is liable to be dismissed. There is no merit in the petition and it lacks bonafied. Unless the above petition is dismissed the respondents/ 1st and 2nd defendants will be put to very great loss and hardship. Hence, the petition is to be dismissed.

3. No Witnesses were examined on either side, and no documents were marked as exhibits.

4. Points for Consideration:-

Whether the petition u/O 14 Rule 5(2) R/W section 151 of CPC to Strike out the preliminary issues framed on limitation and res judicata in I.A.No.8/2025 and to direct that the suit O.S.No.74/2022 be proceeded with a full trial on all issues to be allowed?

5. Points :-

5.1. The petition affidavit, counter and the enquiry of both parties were carefully considered. Heard the counsels for both the parties. The suit documents were carefully examined. The Main suit is filed for Declaration and Permanent Injunction, now the original suit is pending for trial.

5.2. Earlier order 7 Rule 11 of CPC petition in I.A.No.3/2022 was dismissed, before framing of issues regarding Limitation and Res judicata. Now the Hon'ble Supreme Court, permitted to decide the points after framing issues, i.e., as Preliminary issues, that too during trial. Hence, the earlier petition filed by the petitioners Under Order 7 Rule 11 of CPC and the petition filed under Order 14 Rule 2(2) of CPC are in two different aspects. The Order 7 Rule 11 of CPC was decided before framing of issues and even before the filing of the written statement by the defendants. But the preliminary issues are decided after filing of Written statement and framing of issues. So at the beginning of the trial the preliminary issues can be raised.

5.3. After the dismissal of I.A.No.3/2022, the petitioners preferred the Civil Revision Petition before the Hon'ble High Court at Madras and the same was dismissed. Against the Hon'ble High Court order the petitioners preferred SLP in No.19983/2025, in which the petitioners are granted permission to raise the legal points regarding 1) Limitation and 2) Res – Judicata in the trial court during the trial. The 1st and 2nd defendants filed the petition Under Order 14 Rule 2(2) of CPC in

I.A.No.8/2025 in which the respondents/plaintiffs also filed the counter statement and agitate the framing of additional issues regarding 1) Limitation and 2) Resjudicata. The petition in I.A.No.8/2025 was allowed on 20.09.2025 framing for preliminary issues. Though the Preliminary Issues were framed, the Preliminary issues are decided along with other issues at the time of Judgment. Hence, in the interest of justice this petition is dismissed.

In the result, this petition is dismissed. No cost.

Dictated to the Steno-typist and directly typed by her in computer, corrected and pronounced by me in open court this the 18th day of February 2026.

Sd/M.Santhosham
District Munsif,
Sulur.

List of witnesses and documents on Petitioner side:- - Nil

List of witnesses and documents on Respondent side:- - Nil

Sd/M.Santhosham
District Munsif,
Sulur.

Draft/ Fair Order
 I.A.No.9/2025 in
 O.S.No.74/2022
 Dated:18.02.2026
 DMC, Sulur