

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.2026 of 2017
& C.M.P.No.9870 of 2017

1. V.Ramasamy Mooppar
2. R.Venkatraman
3. R.Venkatesan
4. R.Ranganathan

.. Petitioners

Vs.

M.Kumaravel
Represented by his power of attorney
V.Kolanjiammal

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 03.04.2017 made in I.A.No.318 of 2017 in O.S.No.240 of 2011 on the file of II Additional District Munsif Court, Kallakurichi, Villupuram District.

For Petitioners : Mr.D.Balachandran

ORDER

This Civil Revision Petition has been filed against the fair and decretal order dated 03.04.2017, made in I.A.No.318 of 2017 in O.S.No.240 of 2011 on the file of II Additional District Munsif Court, Kallakurichi, Villupuram District.

2. The petitioners are the plaintiffs and respondent is the defendant in O.S.No.240 of 2011. The petitioners filed suit for permanent injunction restraining respondent from interfering with the petitioners' peaceful possession and enjoyment of the 'B' schedule property and using the 'A' schedule property as pathway. The respondent filed written statement and is contesting the suit. Trial commenced. The evidence was let in by both the parties. Arguments were adduced on behalf of the petitioners. The learned counsel for the respondent filed written arguments. When the suit was posted for arguments on behalf of the petitioners, petitioners filed I.A.No.318 of 2017 for appointment of an Advocate Commissioner to inspect the suit property and file a report.

3. According to the petitioners, they are the owners of 'A' schedule property and they are using 'B' schedule property as pathway to reach their land described in the 'A' schedule property.

4. The respondent filed counter affidavit opposing the said application and submitted that the averments mentioned in the affidavit filed in support of the application are contrary to the averments made in the plaint. In the plaint, the petitioners stated that they are the owners of the 'B' schedule property and they are using 'A' schedule property as pathway.

5. The learned Judge considering the averments made in the affidavit, counter affidavit and materials on record, dismissed the application.

6. Against the order of dismissal dated 03.04.2017 made in I.A.No.318 of 2017, the present civil revision petition is filed by the petitioners.

7. Heard the learned counsel for the petitioners and perused

the materials available on record.

8. From the materials on record, it is seen that the petitioners prayed for interim injunction on the ground that the respondent is interfering with their peaceful possession and enjoyment of their pathway in 'A' schedule property. Contrary to the said contention, the petitioners have come out with the present application stating that 'A' schedule property belongs to them and pathway in 'B' schedule property is a common pathway and they are using the same to reach their property described in the 'A' schedule property. Village Administrative Officer has been examined and he has deposed with regard to the pathway. Taking note of this fact, the learned Judge dismissed the application. It is also to be noted that subsequent to the dismissal of that application, the petitioners filed two applications in I.A.Nos.317 and 318 of 2017 to reopen the case and for appointment of Advocate Commissioner. Both the applications were dismissed on 03.04.2017.

9. Considering the above facts and circumstances of the case, I hold that there is no irregularity or illegality in the order dated 03.04.2017 made in I.A.No.318 of 2017 warranting interference by this Court.

10. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

30.06.2017

Index : Yes/No

gsa/kj

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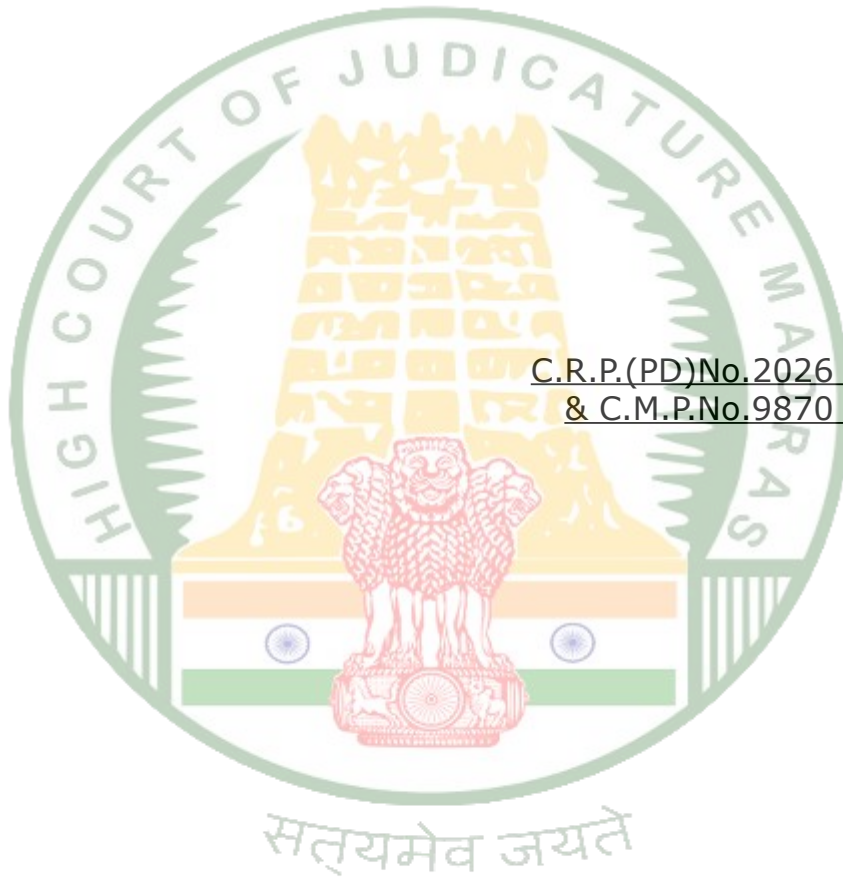
The II additional District Munsif Court
Kallakurichi
Villupuram District.



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V.M.VELUMANI, J.

gsa/kj



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