

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP (PD) No.922 of 2018

&

C.M.P.No.4997 of 2018

1.Rajaram

2.Sakthivel

3.Manivel

4.Sundar

.. Petitioners/Defendants
5 to 8

-Vs-

Pannerselvam

.. Respondent/Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the order dated 16.02.2018 made in I.A.No.206 of 2018 in O.S.No.32 of 2018 on the file of the District Munsif Court, Dharmapuri.

For Petitioners : Mr.C.Prabakaran

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ORDER

This Civil Revision Petition has been filed to set aside the order dated 16.02.2018 made in I.A.No.206 of 2018 in O.S.No.32 of 2018 on the file of the District Munsif Court, Dharmapuri.

2. According to the petitioners that the respondent has filed a suit in O.S.No.32 of 2018 on the file of the District Munsif Court, Dharmapuri for damages against the defendants 5 to 8 and also permanent injunction against the defendants 5 to 8. Ad-interim injunction was granted by the Court below on 16.02.2018 in I.A.No.206 of 2018 in the aforesaid suit and the respondent herein was directed to comply with the provisions under Order 39 Rule 3 (a) of the Code of Civil Procedure. On receipt of summons on 19.02.2018, the petitioners filed the present Civil Revision Petition before this Court on 26.02.2018.

3. According to the petitioners the revenue records clearly shows that the aforesaid suit is classified as "Sandhu" which is a public pathway. Therefore, the respondent has abused the process of the Court and obtained the interim order against the petitioners and

hence, the petitioners have filed the present civil revision petition before this Court.

4. According to the petitioners, the respondent has abused the process of the Court without extending the remedy under the provisions of the Code of Civil Procedure and hence, they have filed the present Civil Revision Petition under Article 227 of the Constitution of India which is maintainable.

5. On a perusal of the order passed by the Court below, it is seen that the respondent has filed the aforesaid suit and obtained the Ad-interim injunction. By taking advantage of the Ad-interim injunction the respondent put up a wall and blocking the pathway of the suit property. Therefore, there is an urgency of vacating the interim order.

6. By considering the above said facts and the contentions of the revision petitioners, without expressing any opinion on merits, this Court is inclined to pass the following Orders:

1. The petitioners are permitted to file a counter affidavit, within a period of one week from the date of receipt of a copy of this order;

2.Since the respondent filed an application under Order 39 Rule 1 of the Code of Civil Procedure, the trial Court is directed to dispose of the application within thirty days preferably on or before 02.04.2018.

7.Accordingly, the civil revision petition is disposed of with the above directions. No costs. Consequently, the connected Miscellaneous Petition is closed.

09.03.2018

Speaking/Non-Speaking order
Index :Yes/No
Internet:Yes/No

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Note: Issue Order Copy on 16.03.2018

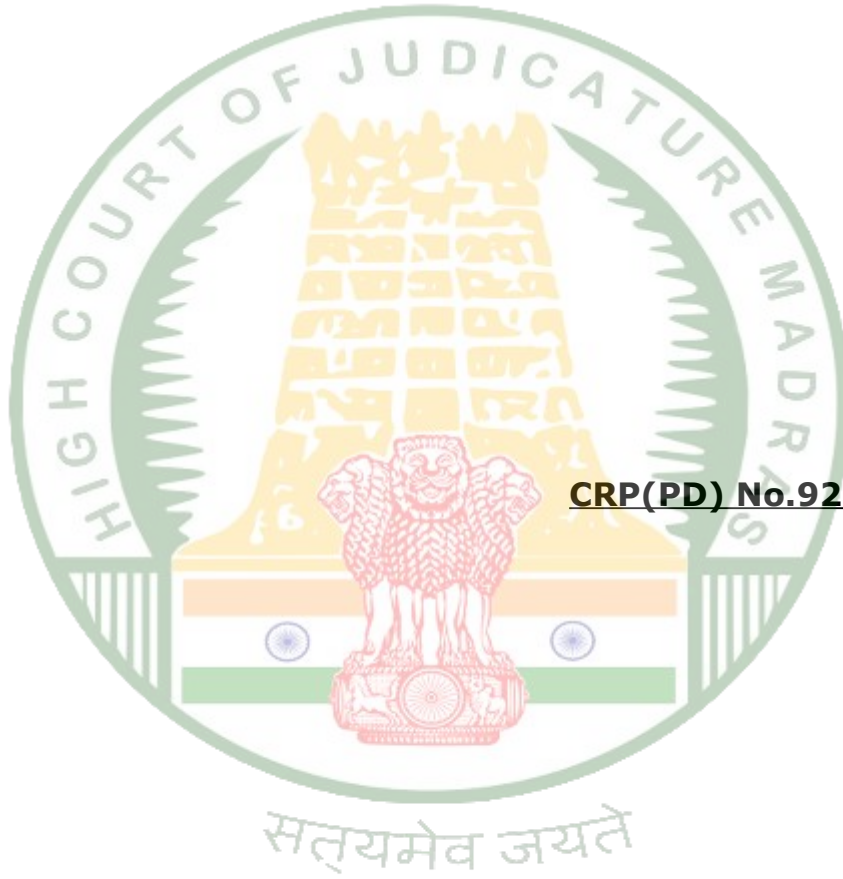
To

The District Munsif,
Dharmapuri.

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D. KRISHNAKUMAR J.,

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