



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2019

CORAM:

WEB COPY

**THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN**

C.R.P. (PD) (MD) No.1252 of 2013 and  
M.P (MD) No.1 of 2013

A.Nallusamy ... Petitioner/1<sup>st</sup> Respondent/Plaintiff  
**Vs.**  
1. M.Gurunathan ... 1<sup>st</sup> Respondent/Petitioner/3<sup>rd</sup> Party  
2. The District Collector,  
Karur District, Karur.  
3. The Tahsildar,  
Karur Taluk,  
Karur Taluk Office,  
Karur District. ... 2&3<sup>rd</sup> Respondents/2&3 Respondents/  
Defendants

**PRAYER:** This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 28.01.2013 passed in I.A.No.337 of 2012 in O.S.No.630 of 2008 on the file of the Additional District Munsif Court, Karur, by allowing this Civil Revision Petition.

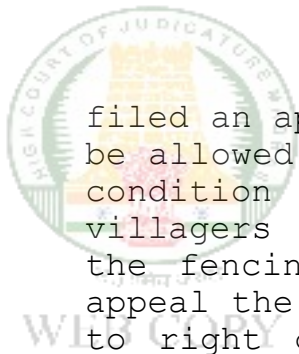
For Petitioner : Mr.M.P.Senthil  
For R1 : Ms.D.Geetha  
For R2 & R3 : Mr.N.Shanmugaselvam  
Additional Government Pleader

**ORDER**

This Civil Revision Petition has been filed by the plaintiff challenging the order of the Trial Court made in I.A.No.337 of 2012, in and by which, the 1<sup>st</sup> respondent was impleaded as 4<sup>th</sup> defendant in the suit.

2. The suit relates to easementary rights claimed by the petitioner over the Government land which is admittedly classified as natham. There was an earlier round of litigation wherein, the 4<sup>th</sup> respondent filed a writ petition seeking eviction of encroachment made by the petitioner in the natham land. The said writ petition was allowed by this Court, directing the authorities to remove the encroachment.

3. Aggrieved by the said order, the petitioner herein has



filed an appeal in W.A.No.589 of 2009. The said writ appeal came to be allowed on 15.12.2009, subject to certain conditions. One of the condition is that the petitioner herein will not prevent the other villagers for using the said natham land and will not also prevent the fencing of the land. It is after the disposal of the writ appeal the petitioner had sought for declaration that he is entitled to right of pathway over the 'B' schedule property, namely, the natham land and also for injunction. It is in the said suit, the 1<sup>st</sup> respondent sought to implead himself. In the affidavit filed in support of impleading petition, the 1<sup>st</sup> respondent has clearly stated that he has filed the same in public interest, representing the entire villagers.

4. Pending Civil Revision Petition, the 1<sup>st</sup> respondent has died and the learned Counsel for the 1<sup>st</sup> respondent would report that his legal heirs are not responding to the letters or phone calls, thereby making it difficult for the petitioner to bring his legal heirs on record. The learned Counsel for the petitioner would contend that the 1<sup>st</sup> respondent sought for impleading only as a representative of the villagers, now that he is dead, his legal heirs cannot be brought on record in this Civil Revision Petition. Accepting the said submission, this Civil Revision Petition is disposed of with a direction to the Trial Court to record the 4<sup>th</sup> Defendant as dead and proceed with trial.

5. In fine, this Civil Revision Petition is disposed of with a direction to the Trial Court to record the 4<sup>th</sup> Defendant as dead and proceed with trial. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

**To**

The Additional District Munsif,  
Karur.

+1 CC to M/s.M.P.SENTHIL, Advocate ( SR-104622[F] dated 12/12/2019)  
+1 CC to M/s.M/S.D.GEETHA, Advocate (SR-104792[F] dated 13/12/2019)  
+1 CC to M/s.SPL.GP (SR-105007[F] dated 13/12/2019)

RM

TE : 07/01/2020 : 2P/5C

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