

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.2394 of 2012
and M.P.No.1 of 2012

1.Vimala
2.V.P.Jayabalan .. Petitioners/Defendants 1 and 2

Vs.

1.Santha @ Bhagyalakshmi .. 1st Respondent/Plaintiff

2.R.Savithiri

3.R.Dhanalakshmi

4.R.Padmavathi

5.R.Lalitha .. Respondents 2 to 5/Proposed
Defendants 3 to 6

Prayer: Civil Revision Petition filed under Article 227 of the
Constitution of India, against the fair and decretal order dated 08.02.2012

made in I.A.No.419 of 2011 in O.S.No.2039 of 2008 on the file of the Principal District Munsif Court, Coimbatore.

For Petitioner : Mr.P.M.Duraiswamy

For Respondents : No appearance

ORDER

The matter is heard through "Video-Conferencing".

Civil Revision Petition is filed against the fair and decretal order dated 08.02.2012 made in I.A.No.419 of 2011 in O.S.No.2039 of 2008 on the file of the Principal District Munsif Court, Coimbatore.

2.The petitioners are the defendants 1 and 2 and 1st respondent is the plaintiff in O.S.No.2039 of 2008 on the file of the Principal District Munsif Court, Coimbatore. The 1st respondent filed the said suit against the petitioners for permanent injunction restraining the petitioners and their men from interfering with the peaceful possession and enjoyment of the suit property. The petitioners filed written statement and are

contesting the suit. The trial commenced. The 1st respondent let in evidence and closed their side. At that stage, the petitioners filed I.A.No.419 of 2011 to implead the respondents 2 to 5 as defendants 3 to 6 in the suit. The 1st respondent filed counter and opposed the said petition. The learned Judge dismissed the petition.

3. Against the said order of dismissal dated 08.02.2012 made in I.A.No.419 of 2011 in O.S.No.2039 of 2008, the petitioners have come out with the present Civil Revision Petition.

4. The learned counsel appearing for the petitioners contended that the petitioners filed written statement with counter claim for mandatory injunction to remove the illegal encroachment made by the 1st respondent and the respondents 2 to 5 in the common pathway and for permanent injunction restraining the respondents from interfering with their enjoyment of pathway as well as maintenance of the walls of their property around 'E' and 'G' portions of the suit property. The suit property

originally belonged to the father of the 1st petitioner and respondents by the Will dated 07.03.1990. Their father Raju Naidu bequeathed 'E' schedule property to the 1st petitioner and 'G' schedule property to the 1st petitioner and the respondents. The respondents by the two Release deeds dated 15.07.1993 and 13.06.1993 released their right in favour of the 1st petitioner. The respondents promoted a joint multi storey building and are interfering with the petitioners peaceful possession and enjoyment. Hence, the respondents 2 to 5 are necessary parties to decide the issue in the suit and prayed for allowing the Civil Revision Petition.

5. Though notice was served on the 1st respondent and her name is printed in the cause list, there is no representation on behalf of her either in person or through counsel.

6. Though the respondents 2 to 5 have entered appearance through the counsel, there is no representation on behalf of them when the matter is taken up for hearing.

7.Heard the learned counsel appearing for the petitioners and perused the entire materials available on record.

8.From the materials available on record, it is seen that the 1st respondent has filed the suit for permanent injunction restraining the petitioners and their men from interfering with the peaceful possession and enjoyment of the suit property. No allegation of interference is made against the respondents 2 to 5. The issue in the suit is whether the petitioners are interfering with the possession and enjoyment of the 1st respondent. When no allegation of interference is made against the respondents 2 to 5, in a suit for injunction they are not proper and necessary parties to decide the issue in the suit. The learned Judge considering the entire materials available on record dismissed the petition by giving cogent and valid reason. There is no error in the order of the learned Judge warranting interference by this Court.

9. In the result, the Civil Revision Petition stands dismissed.

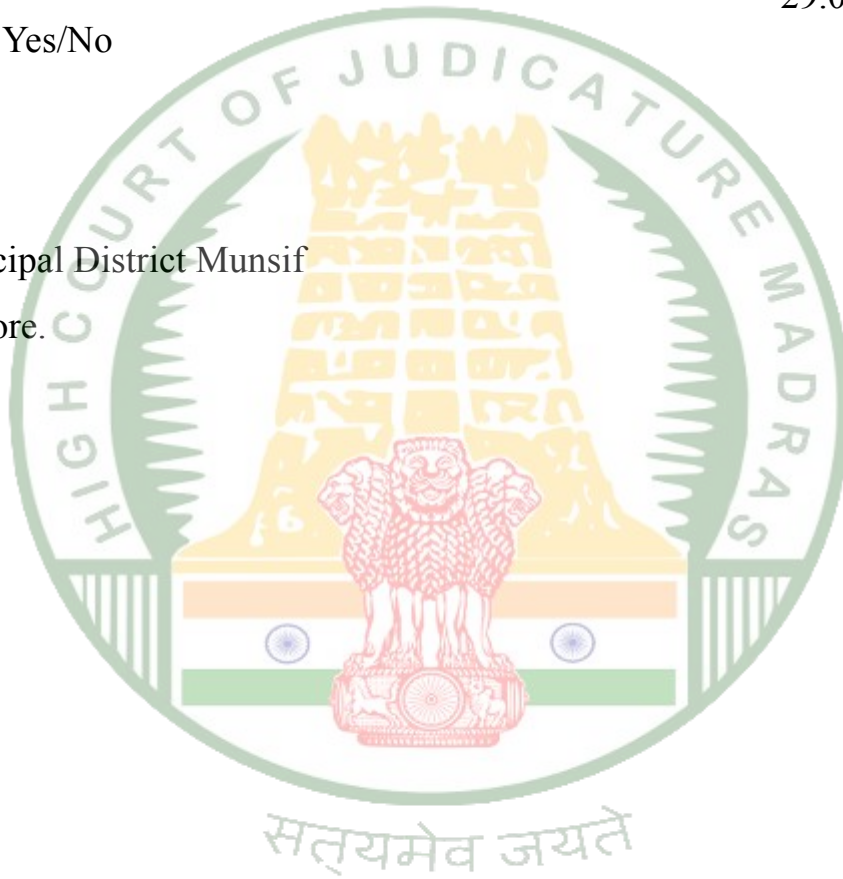
Consequently, connected Miscellaneous Petition is closed. No costs.

29.09.2020

Index : Yes/No
kj

To

The Principal District Munsif
Coimbatore.

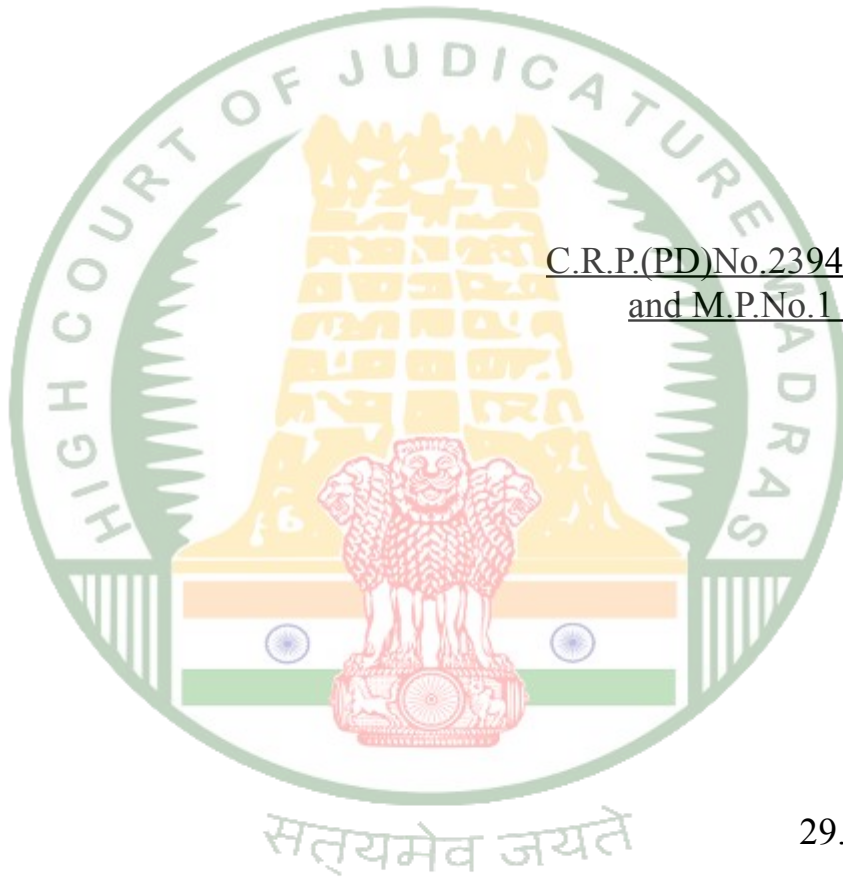


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V.M.VELUMANI, J.

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