

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.03.2020

Coram

The Honourable Mr.Justice D.KRISHNAKUMAR

**C.R.P(PD)No.1199 of 2020
and C.M.P.No.6484 of 2020**

1.Mr.Venkatesan
2.Mrs.Adhilakshmi
3.Mr.Rajasekar
4.Mrs.Parvathy

...Petitioners

Versus

Mr.Suresh

...Respondent

This Civil Revision Petition is filed under Article 227 of the Constitution of India praying to set aside the order passed in I.A.No.218 of 2019 in O.S.No.34 of 2018 on the file of the District Munsif cum Judicial Magistrate, Uthiramerur dated 22.07.2019.

For Petitioner

Mr.K.Balaji

ORDER

The relief sought for in the present Civil Revision Petition is to set aside the order dated 22.07.2019 passed by the learned District Munsif cum Judicial Magistrate, Uthiramerur in I.A.No.218 of 2019 in O.S.No.34 of 2018.

2. The brief facts of the case are as follows:

The respondent had filed a suit O.S.No.34 of 2018 before the District Munsif cum Judicial Magistrate Court, Uthiramerur for the following reliefs:

(a) to grant permanent injunction against the petitioners and their men or agents from in any way interfering the respondent's peaceful possession and enjoyment of the suit property and

(b) to award costs of the suit.

2.1 The petitioners had filed the written statement in O.S.No.34 of 2018, wherein, they have denied all the averments made by the respondent in the plaint.

2.2 While the aforesaid suit is pending, the respondent had preferred an Interlocutory Application in I.A.No.261 of 2018 under Order 39 Rule 1 & 2 of C.P.C for temporary injunction and the same was allowed on 27.02.2019. Thereafter, the respondent had preferred another Interlocutory Application in I.A.No.218 of 2019 under Section 151 of C.P.C seeking to

render police aid to him thereby directing the Sub Inspector of Police, Salavakkam Police Station when the same is required by him. By order dated 22.07.2019, the learned District Munsif cum Judicial Magistrate, Uthiramerur has allowed I.A.No.218 of 2019. Aggrieved by the order dated 22.07.2019, petitioners have filed the present Civil Revision Petition before this Court.

3. Heard the learned counsel for the parties and perused the materials available on record.

4. The learned counsel for the petitioners would submit that the first petitioner's father Veeran captured the 'A', 'B' & 'C' suit schedule properties and put up a thatched hut in 'A' schedule property, cattle shed in 'B' schedule property and constructed a Church in 'C' schedule property and formed a street on the northern side. The respondent put up a thatched hut in the opposite side of petitioners' property. He would further submit that after the demise of petitioners' father, petitioners' mother Valliyammal was living in the suit 'A' schedule property without any hindrance. The first petitioner

applied under the Prime Minister Residential Scheme and after allotment, the petitioners constructed a terraced house in suit 'B' schedule property.

5. The learned counsel would further submit that the respondent put up a thatched hut in cement road in front of the suit property. When the petitioners questioned the act of the respondent, the respondent said that the road was in their patta land and the said patta stands in the name of the respondent's wife. Therefore, the petitioners filed a petition before the District Collector, Kancheepuram as against the respondent. The revenue officials inspected the suit village and advised the petitioners to file a fresh petition to the Revenue Divisional Officer, Kancheepuram and to the Tahsildar, Uthiramerur Taluk to rectify the error made in suit schedule property. As per their advise, the petitioners have also filed a petition before the District Collector and Revenue Divisional Officer, Kancheepuram Division and the Tahsildar, Uthiramerur Taluk to rectify the error made in suit schedule property, however, the said petition is pending before the revenue department.

6. The learned counsel would contend that on 02.02.2018, the respondent's wife Smt.Selvi had falsely executed a registered settlement deed in favour of the respondent under a registered settlement deed document No.81/2018 on the file of the S.R.O. at Salavakkam. The said settlement deed was created by the respondent only with an intention to grab the suit schedule property from the right and lawful possession of the petitioners. He would further contend that the respondent filed I.A.No.218 of 2019 to drag on the proceedings, however, the said Application was allowed by the Court below. He therefore prayed that the order dated 22.07.2019 passed by the learned District Munsif-cum-Judicial Magistrate, Uthiramerur in I.A.No.218 of 2019 may be set aside.

7. It is seen from the records that the respondent has filed I.A. No. 261 of 2018 for temporary injunction and the same was granted in favour of the respondent. Again the respondent filed another application in I.A. No. 218 of 2019 to provide police protection. The said application was also allowed by the trial Court.

6. Against the said orders, the petitioner has not preferred any appeal before the Appellate authority nor Injunction order has been modified. Unless the said order of the trial Court is modified or set aside by the Appellate Court, the prayer sought for by petitioner cannot be considered. Hence, this Court finds no merits in the present Civil Revision Petition and there is no error in the order passed by the trial Court and the same does not require any interference by this Court. The Civil Revision Petition is liable to be dismissed.

7. In the result, this Civil Revision Petition is dismissed, however, liberty is granted to the petitioners to work out their remedy in the manner known to law. No costs. Consequently, connected Miscellaneous Petition is closed.

18.03.2020

Index : Yes/No

Internet :Yes

mrr/ak

To

The District Munsif cum Judicial Magistrate,
Uthiramerur.



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C.R.P(PD)No.1199 of 2020

D.KRISHNAKUMAR, J.,

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