

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.NPD.No.4676 of 2015 and
MP.No.1 of 2015

1.Murugesan
2.Karuppagounder

..Petitioners

Vs.

1.Neelamegam
2.Eswar
3.Subbian
4.Karuppathal
5.Dhandapani
6.Ramasamy

..Respondents

PRAYER:

The Civil Revision Petition is filed under Section 115 of Code of Civil Procedure against the order dated 03.09.2015 made in EP.No.19 of 2013 in OS.No.416 of 2009 on the file of the District Munsif Court, Udumalpet.

For Petitioners : Mr.P.Srinivas

For Respondents

For R1 : M/s.S.Mahalakshmi
for M/s.Dr.R.Gowri
R2 : Notice served
R3 to 6 : exparte

ORDER

The civil revision petition is directed as against the fair and decreetal order passed in EP.No.19 of 2013 in OS.No.416 of 2009 on the file of the District Munsif Court, Udumalpet thereby ordered to arrest the petitioners herein and imprison them in a civil prison for two months.

2. The respondents filed suit for permanent injunction restraining the petitioners from interfering with the peaceful possession and enjoyment of the suit property and also survey the suit property through the Tahsildar and fix stones. The suit was decreed in favour of the respondents 1 and 2 herein. Thereafter, the respondents 1 and 2 filed execution petition alleging that the petitioners herein disturbed the peaceful possession and enjoyment of the suit property and also did not cooperate for survey the land to put up the boundary stones in the suit schedule property.

3. Admittedly, the suit schedule property belong to respondents

1 and 2 herein. On perusal of the affidavit filed in support of the execution petition, revealed that the petitioners did not cooperate to survey the land belong to the respondents 1 and 2 to fix boundary stones by the revenue officials. The petitioners filed counter stating that they never disturbed the peaceful possession and enjoyment of the suit property by the respondents 1 and 2 herein and denied all the allegations and averments made in the affidavit in support of the execution petition. Both the parties did not examine any witness and did not mark any document. Only on the strength of the affidavit filed in support of the execution petition, the court below ordered arrest of the petitioners herein. That apart, the decree was granted in favour of respondents 1 and 2 thereby restraining the petitioners herein from interfering with the peaceful possession and enjoyment of the suit property and also survey the suit property through Tahsildar and fix stones. Therefore, the respondents 1 and 2 can very well survey land with the help of the revenue officials.

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4. It is also seen that there is no evidence to show that there was interference while surveying the land and no complaint was lodged

by the revenue officials while surveying the property. Therefore, the order passed by the execution court is perverse and liable to be set aside.

5. Accordingly the order dated 03.09.2015 made in EP.No.19 of 2013 in OS.No.416 of 2009 on the file of the District Munsif Court, Udumalpet is set aside. However, the petitioners are directed not to interfere with the peaceful possession and enjoyment of the suit schedule property by respondents 1 and 2 and also not to interfere while surveying the land by the respondents 1 and 2 with the help of the revenue officials.

6. With the above direction, the civil revision petition is allowed. Consequently, connected miscellaneous petition is closed. No order as to costs.

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

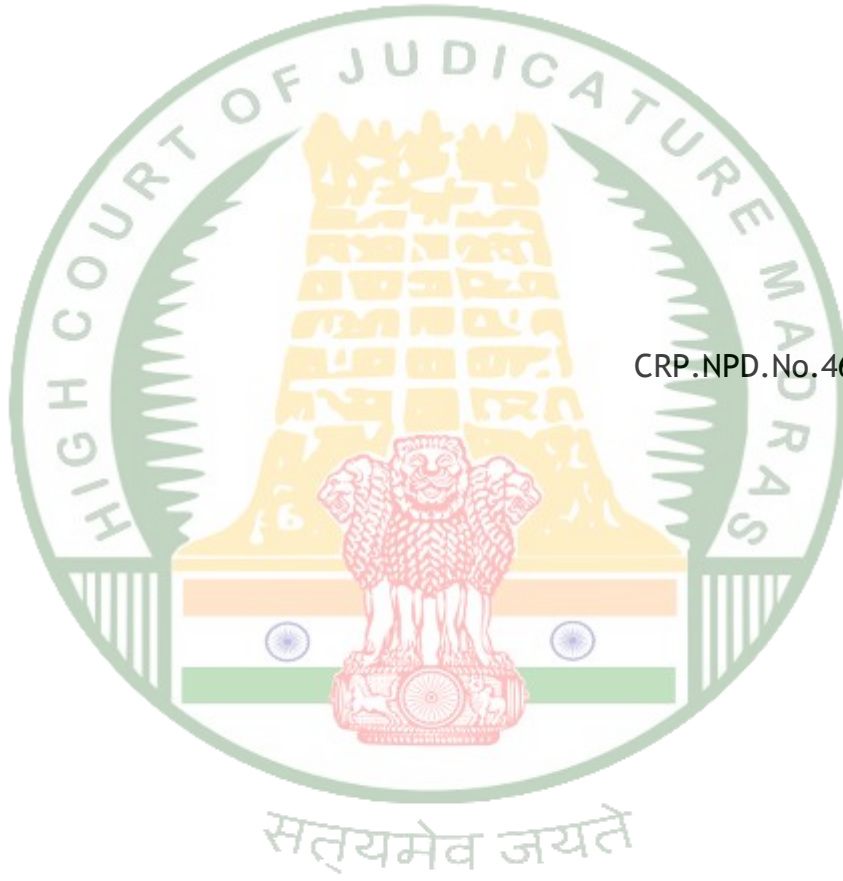
The District Munsif Court,
Udumalpet.



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G.K.ILANTHIRAIYAN,J.

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