

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**Dated: 05.10.2021**

**CORAM:**

**THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN**

C.R.P. (PD) No. 1375 of 2021

and

C.M.P. No. 10689 of 2021

P.Paramasivam

... Petitioner

Vs.

1. Dhanalakshmi

2. Ragupathy

3. Kalaiselvi

... Respondents

**PRAVERS:** Civil Revision petitions filed under Article 227 of Constitution of India to set aside the Judgment and Decree passed in I.A. No. 4 of 2021 in O.S. No. 231 of 2017 dated 23.03.2021 on the file of the Principal District Munsif Court, Tiruchengode.

For Petitioner : Mr. M.S.Palaniswamy

**ORDER**

C.R.P. No.1375 of 2021 has been filed against the order passed in I.A.No.4 of 2021 in O.S.No.231 of 2017 by the Principal District Munsif, Tiruchengode, dated 23.03.2021.

2.Learned counsel for the Petitioner submitted that the suit in

O.S.No.231 of 2017 was filed by the Petitioner seeking the relief of permanent injunction interdicting and restraining the defendants, their men, servants from in any way interfering with the petitioner's peaceful usage and enjoyment of suit cart track to reach their lands.

3.The petitioner has taken steps for measuring the properties comprised in Survey Nos. 348/2 and 348/3. In this regard, he has paid necessary fees through Challan. But the respondents objected to measure the same. Hence, the Tahsildar vide letter dated 27.07.2017 in Na.Ka.No.7809-2017/A7 prayed for police protection to measure the properties in respect of Survey Nos. 348/2 and 348/3. The respondents through an advocate sent a legal notice informing not to measure the suit properties. If the properties in Survey Nos. 348/2 and 348/3 are measured, controversy between the parties can be resolved. However, due to obstructive attitude of the respondents, the properties could not be measured through the Tahsildar, Tiruchengode.

4.To bring to the notice of this Court, the efforts taken by the petitioner for measuring the properties comprised in Survey Nos. 348/2 and 348/3, Petition was filed under Order XVI Rule 1(3) of the CPC, to

summon the Tahsildar, Tiruchengode to appear before the Court along with the petition dated 13.03.2017, challan for payment of Rs.320/-, letter of the Tahsildar, Tiruchengode in Na.ka. No.7809-2017/A7 dated 27.07.2017 to the Inspector of Police, Elachipalayam Police Station and notice of Mr.Ragupathy, dated 27.07.2017 sent to the the Tahsildar, Tiruchengode and to give evidence. This petition came to be dismissed by the learned Judge, Principal District Munsif Court, Tiruchengode. Against the order of dismissal made in I.A.No. 4 of 2021, the present civil revision petition is preferred.

5.Learned counsel for the petitioner submitted that in the nature of the suit and the relief claimed, to resolve the issue between the parties and to establish the right of the petitioner in respect of the suit properties, the petitioner has taken efforts to measure the properties comprised in Survey Nos. 348/2 and 348/3. Since that was objected by the Respondents, the measurements could not be taken place. However, it is necessary to cross examine the Tahsildar, Tiruchengode in detail with regard to the property and with regard to the extent of Survey No.348/2. Therefore, he prays for setting aside the order passed by the learned Judge, Principal District Munsif Court, Tiruchengode.

6.It is seen from the records that notice was sent to the Respondents and the same was served on the Respondents. Even though the names of the Respondents were printed in the cause list, no one entered appearance for the Respondents.

7. Scope of this civil revision petition is very limited to the extent that admittedly, there is a dispute between the parties with regard to the properties comprised in Survey Nos. 348/2 and 348/3. As per the petitioner's case, the suit cart track is in survey No.348/3. The claim of the petitioner about his right over the cart track is denied and disputed by the respondents. Therefore, it has to be ascertained by measuring these properties, to find out the availability of the cart track in survey No. 348/3. The petitioner had made an attempt to measure these properties with the help of the Tahsildar by paying necessary fess through challan. It appears that the same was objected by the respondents. The petitioner wants to summon the connected documents to be produced before the Court through the Tahsildar, Tiruchengode to show his *bonafide* and his efforts taken for measuring the properties in respect of Survey Nos. 348 / 2 and 348 / 3

for resolving the issues. This Petition was dismissed on the ground that the Petitioner ought to have applied for certified copies. These documents have come into existence during the administrative functioning of the Tahsildar. Therefore, we cannot expect the Tahsildar, Tiruchengode to issue certified copies of these documents. These documents have not come into existence during any judicial or quasi judicial proceedings. Therefore, this Court is of the view that the petitioner should be given an opportunity to summon the Tahsildar for production of the documents and for giving evidence.

8. In this view of the matter, the order dated 23.03.2021 in I.A.No.4 of 2021 in O.S.No.231 of 2017 of the court below is set aside and I.A.No.4 of 2021 in O.S.No.231 of 2017 is allowed.

9. Accordingly, this Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

**05.10.2021**

*Maya*

Speaking Order / Non Speaking Order

Index : Yes / No

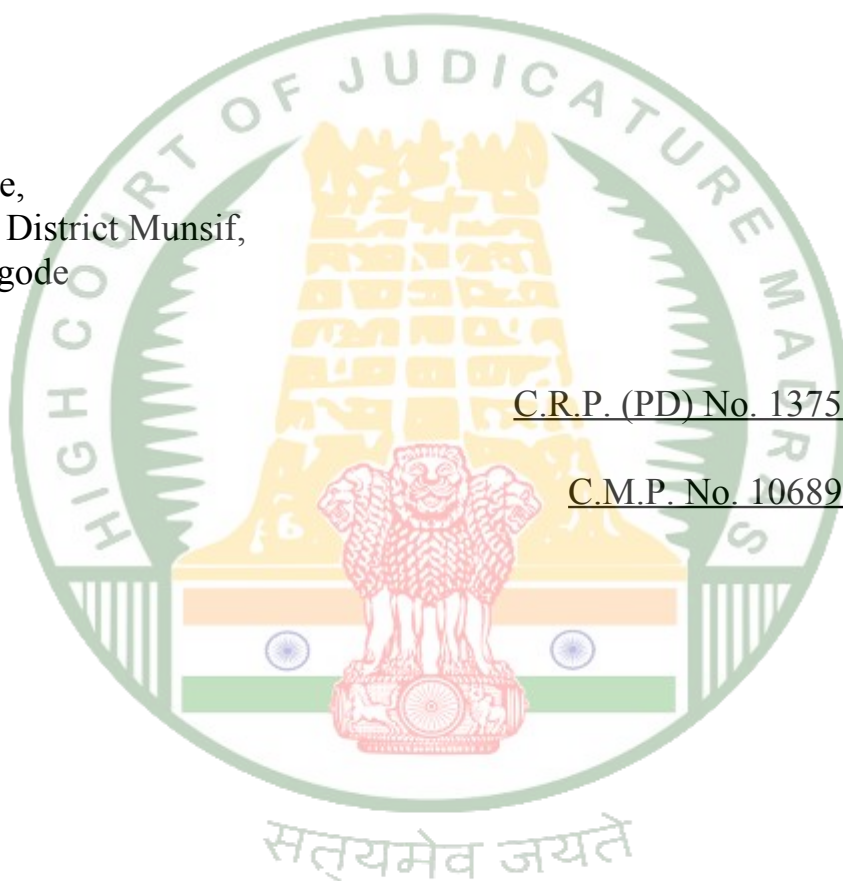
Internet : Yes / No

**G.CHANDRASEKHARAN, J.**

*Maya*

**To**

The Judge,  
Principal District Munsif,  
Tiruchengode



C.R.P. (PD) No. 1375 of 2021  
and  
C.M.P. No. 10689 of 2021

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**Dated: 05.10.2021**