

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CRP(PD)No.2291 of 2020

and

CMP.No.14369 of 2020

[Through Video Conferencing]

- 1.Anjalatchi
- 2.Murugan
- 3.Guedjendirane
- 4.Kesavan

... Petitioners/Plaintiffs

vs

- 1.Iyanar
- 2.Pazhaniammal
- 3.Inayavan
- 4.Ajith
- 5.Angalan
- 6.Kupppammal
- 7.The Union of India

Rep. by its Chief Secretary,
Government of Union Territory of Pondicherry.

- 8.The Revenue Secretary,
Government of Union Territory of Pondicherry.
- 9.The Tahsildar

... Respondents/Defendants

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India seeking to set aside the Judgment and decree dated 05.11.2020 made CMA No.2 of 2019 on the file of the learned III Additional District Judge, Puducherry confirming the order and decree dated 03.08.2019 in I.A.No.325 of 2019 in O.S.No.72 of 2019 on the file of the learned Additional Sub Judge, Puducherry.

For Petitioners : Mr.R.Thiagarajan
For R1- R6 : Mr.S.Silambanan, Senior Counsel
For G.K.Associates
For R7 - R9 : Ms.G.Djearany,
Government Advocate, Puducherry

ORDER

The revision petition has been filed questioning the order dated 05.11.2020 in CMA.No.2 of 2019 by the III Additional District Court, Puducherry, by which order, the order dated 03.08.2019 in I.A.No.325 of 2019 in O.S.No.72 of 2019 passed by the learned Additional Sub Court at Puducherry was confirmed.

2.In effect, the revision petitioners/plaintiffs who had filed application seeking interim injunction, suddenly found that their application was dismissed, which order was confirmed by the Appellate Court.

3.As a matter of fact, this is the second round of revision petition filed. There was an earlier order passed in CRP.No.3841 of 2019.

4.That revision petition was focused against the order in an Interlocutory Application seeking interim injunction in CMA.No.2 of 2019. Interim

injunction was not granted. In the Revisional Court, an order of status quo was granted till disposal of CMA No.2 of 2019.

5.The brief facts of the case are that the plaintiffs and the defendants are neighbors. They are enjoying practically the same stretch of land, which has as its re-Survey Nos.118/28 and 118/29. The contentious issue is whether the small gap between the two lands forms part of Survey Nos.118/28 or of 118/29.

6.Plaintiffs claimed that this particular land falls within their property in R.S.No.118 /29. This is disputed by the respondents / defendants who claimed that the particular small piece of land falls within R.S.No.118/28.

7.As is evident, the above narration itself is a little confusing and this confusion can be disentangled only through evidence and documents produced during the course of trial. It is for that purpose that parties are before any trial Court in the first instance.

8.Both the Courts below while passing orders in both I.A.No.325 of 2019 and in CMA No.2 of 2019, with much prudence and caution had stated

that the contentious issues can be decided only on appreciation of evidence.

9.The grievance of the plaintiffs is that though the suit can be proceeded, the contesting respondents are putting up construction over the disputed piece of land.

10.Mr.R.Thiyagarajan, learned counsel expressed his concern that if construction is permitted to be proceeded with and is actually put up, the plaintiffs would never get the land back.

11.However, Mr.Silambanan, learned Senior Counsel for the contesting respondents pointed out that the construction is being put up only with loan advanced by the Government in the Union Territory of Puducherry under the scheme for Adi Dravidars and therefore, stated that in view of this particular litigation the respondents herein are not able to enjoy even their property which originally existed, because that has been taken down owing to the proposed construction.

12.It would only be advisable that the parties approach the trial Court for getting their reliefs after letting in evidence.

13.Mr.R.Thiyagarajan, learned counsel for the petitioner stated that an order of status quo should be granted.

14.This request by the learned counsel is very strongly opposed by Mr.Silambanan, learned Senior Counsel appearing for the respondent.

15.It is seen that the very relief of injunction has been negatived by two separate Courts in I.A.No.325 of 2019 and in CMA No.2 of 2019. Both the learned Judges, as is evident in the order, which had been placed before me had examined in detail the factual situation.

16.Of course their finding would not have any bearing on the final judgment to be delivered. But, since I am not inclined to go in to the rival merits of the parties since any observation by this Court will have a direct bearing on the issues to be decided, I refrain from entering into any discussion on that aspect.

17.Suffice to point out that it would be advisable that the learned Additional Sub Judge at Puducherry proceeds further with trial in O.S.No.72

of 2019 since written statement has also been filed. One further aspect is that the plaintiff appears to have also impleaded as defendants 7, 8 and 9 the Government Officials and cooperation from them would also be required for disposal of the suit. It is seen that the defendants 7, 8 and 9 have not yet file their written statement.

18. In view of the complicated issues which arises in the suit and since an application for appointment of an Advocate Commissioner is still pending, no effective direction can be given for disposal of the suit. Whenever the suit is posted in the special list for commencement of trial, then during the course of trial, the learned Additional Sub Judge may hear the matter on a day to day basis for recording of evidence and even if owing to various circumstances that is not practically possible, the learned Judge may grant a maximum of three working days in between any two adjournments and also ensure that not more than two adjournments are granted for the same reason. If trial is conducted in that particular manner then it could be concluded within a specific period of time. I hope that Interlocutory Applications would not come in the way of disposal of the suit itself.

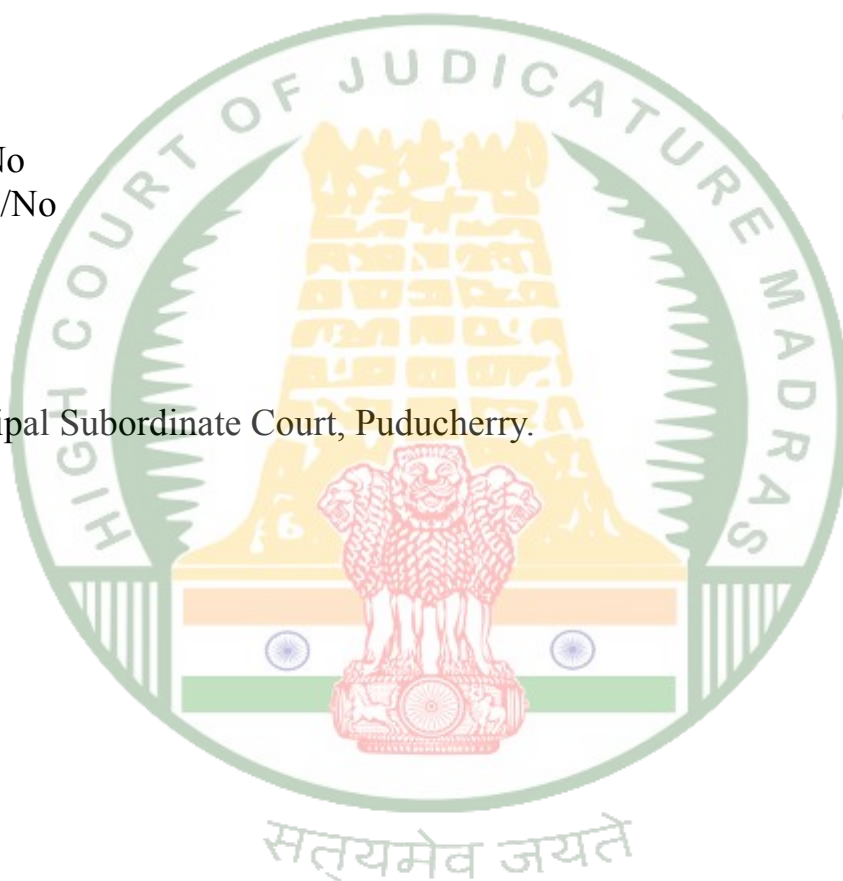
19.The Civil Revision Petition is therefore dismissed with the observation that once the trial commences the aforesaid procedures may be adopted by the learned Additional Sub Judge at Puducherry. Consequently, the connected miscellaneous petition is also closed. No costs.

07.07.2021

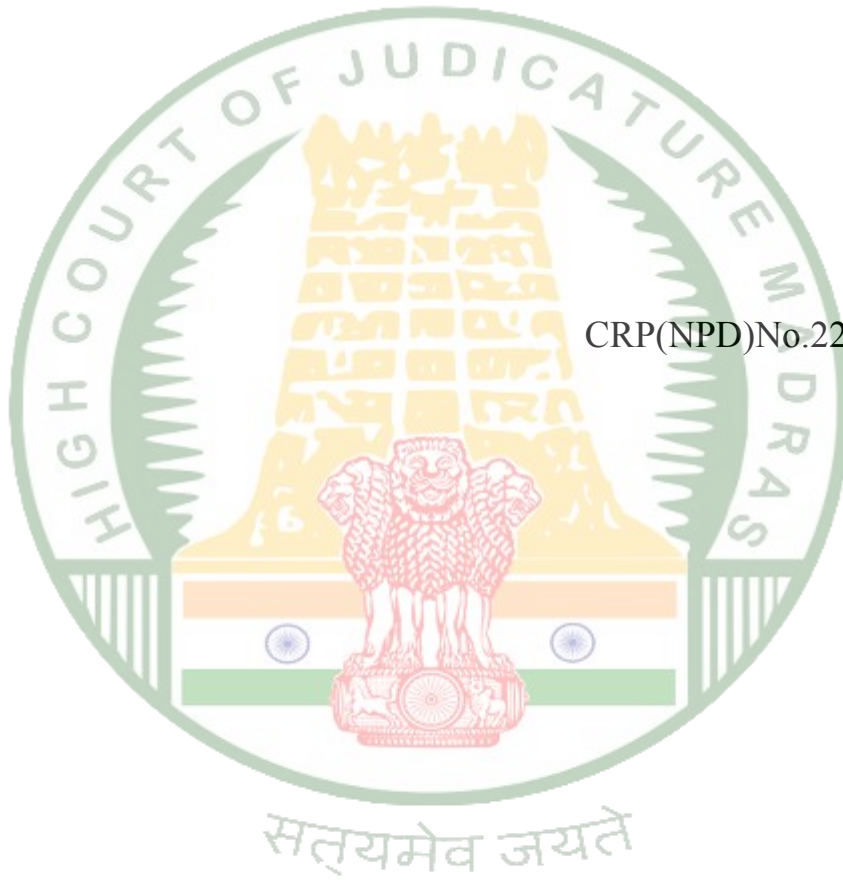
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To

1.The Principal Subordinate Court, Puducherry.



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