

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2021

CORAM :

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.R.P (PD).No.3464 of 2018
and
Cmp.No.19415 of 2018

1.Ponnukutty
2.Arjunasamy

... Petitioners

Versus

1.Rathinasamy
2.Kavitha
3.Lalitha
4.Vimaladevi

... Respondents

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 30.08.2018 made in CMA.No.6 of 2017, before the Subordinate Court, Kangayam partly reversing the fair and decreetal order dated 08.11.2016 in I.A.No.1737 of 2015 in O.S.No.385 of 2015 on the file of the District Munsif Court at Kangayam.

For Petitioners : Mr.P.Valliappan

For Respondents : Mr.P.Navaneethakrishnan
(for R1 to R3)
: No Appearance (for R4)

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 30.08.2018 passed in CMA.No.6 of 2017 by the Subordinate Court, Kangayam.

2.In the above said CMA.No.6 of 2017, the Subordinate Court, Kangayam, modified the order of interim injunction passed in I.A.No.1737 of 2015 in I.A.No.384 of 2016 in O.S.No.385 of 2015 by the District Munsif Court, Kangayam, into one of Status-quo. The reason provided for modifying the order of interim injunction granted by the Trial Court is that after obtaining the interim injunction, the plaintiffs in the suit in O.S.No.385 of 2015 have been trying to disturb the usage of the pathway by the respondents/defendants. Therefore, it was modified as Status-quo order.

3.Challenging the above said modified order passed by the Trial Court, the Revision Petitioners filed the present Civil Revision Petition by contending that originally the plaintiff's/petitioners have obtained the interim injunction on the ground that they have been using this pathway for the past 40 year. The pathway belonged to both the revision petitioners as well as the respondents and both the parties are entitled to use this pathway in question. When the respondents/defendants disturbed and interfered with the usage of the pathway of the plaintiffs, who have filed the suit in O.S.No.385 of 2015 against the respondents/defendants, the appeal has been filed.

4.After considering the pleadings and arguments on both sides, the District Munsif Court, Kangayam, granted the interim injunction. Against which, the respondents in I.A.No.1737 of 2015 have filed the Civil Miscellaneous Appeal in CMA.No.6 of 2017, alleging that by virtue of getting the interim injunction only, the plaintiffs/Revision petitioners are disturbing the respondents/defendants from using the pathway. According to the plaintiffs/Revision petitioners, they are not disturbing the respondents from using the pathway, since, the revision petitioners are well aware of the fact that the respondents are also entitled to use the pathway without any disturbance to each other. Therefore, the order of status quo was granted by modifying the original order of interim injuncton passed by the Trial Court is not proper. Further, he submitted that the concept of passing the Status quo order in similar situation was deprecated by this Court time and again, therefore, the order passed by the Appellate Court is liable to be set aside, and the order passed by the trial Court is to be restored.

5.Per contra, the learned counsel for the respondent contended that the respondent admitted the fact that both are entitled to use the pathway, since after obtaining the interim injunction, the plaintiffs/revision petitioners disturbed the respondents/defendants from using the pathway, they have filed the CMA.No.6 of 2017.

6.Considering the submissions of both counsel, it appears that both the parties are privately entitled to use the pathway and no one is entitled to prevent the other from using the pathway. Therefore, this Court directs both the parties not to disturb each other from peacefully using the pathway, until the disposal of the suit.

8.With these observations and directions, the order passed in CMA.No.6 of 2017 stands modified and the CRP.No.3464 of 2018 is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

klt

To

1.The Subordinate Court, Kangeyam.

2.The District Munsif Court, Kangayam.

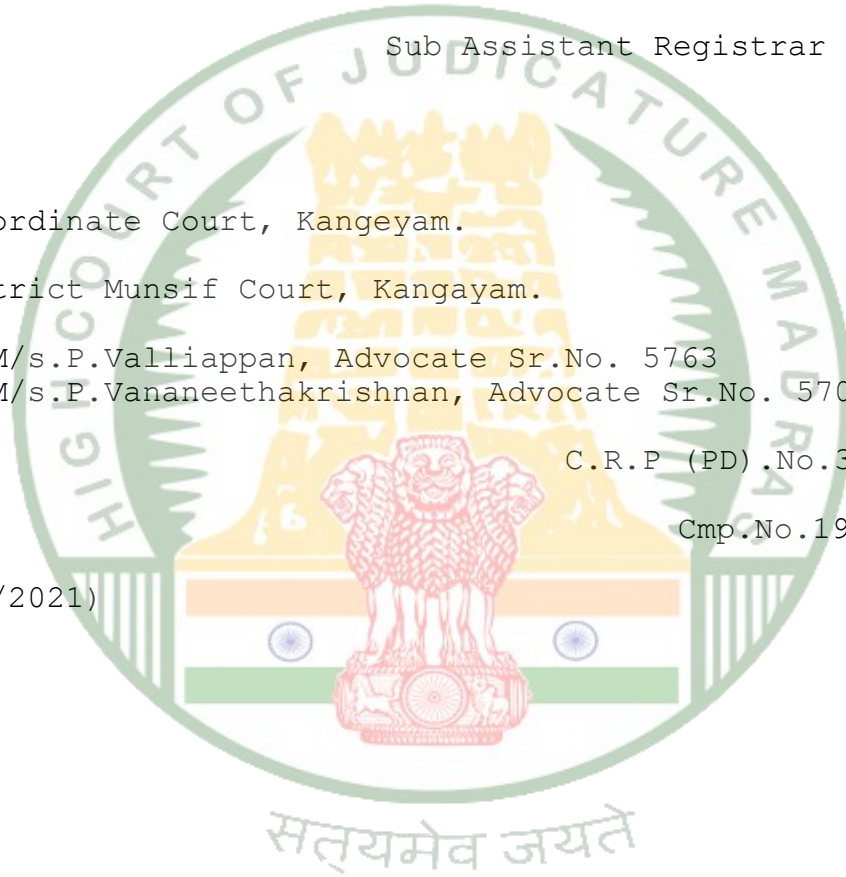
+1 cc to M/s.P.Valliappan, Advocate Sr.No. 5763

+1 cc to M/s.P.Vananeethakrishnan, Advocate Sr.No. 5708

C.R.P (PD).No.3464 of 2018
and
Cmp.No.19415 of 2018

SSV(CO)

RMP(30/03/2021)



WEB COPY