

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(PD) No.4155 of 2018
and C.M.P.No.22906 of 2018

A.Elangovan

Vs

... Petitioner

1.Karuppanna Gounder

2.The Assistant Executive Engineer,
Highways Department Office,
Highways Department,
Rasipuram.

3.The Tahsildar,
Taluk Office,
Rasipuram Town & Taluk,
Namakkal District.

4.The Revenue Inspector,
Revenue Inspector Office,
Vennandur Post,
Rasipuram Taluk,
Namakkal District.

5.The Village Administrative Officer,
Village Administrative Office,
Thengalpalayam Village,
Rasipuram Taluk,
Namakkal District.

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 14.08.2018 made in I.A.No.37 of 2018 in O.S.No.110 of 2017 on the file of the District Munsif Court, Rasipuram.

For Petitioner : Mr.N.Manoharan

For Respondents : Mr.W.Camyles Gandhi for R1
Dr.S.Suriya, GA (CS) for R2 to R5

ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 14.08.2018 made in I.A.No.37 of 2018 in O.S.No.110 of 2017 on the file of the District Munsif Court, Rasipuram, thereby allowing the application to implead the first respondent herein as a party to the suit.

2. The petitioner herein is the plaintiff and the first respondent herein is the proposed party and the respondents 2 to 5 are the defendants 1 to 4 in the said suit. The petitioner herein filed the said suit for bare injunction in respect of the suit property comprised in Patta No.786 Survey No.5/4, in which Plot No.145 ad measuring 1122 sq.ft.

3. Pending the said Suit, the first respondent herein filed an application to implead himself as a party to the said suit, for the reason that the petitioner herein purchased the Plot No.144, that at the Southern side of the said plot Survey Number 17/1 is situated and that the said Survey Number is classified in the Revenue Records as village road. Suppressing the same, the petitioner herein filed the said suit.

4. Admittedly, plot in Survey No.17/1 belongs to National Highways. However, the first respondent alleged that the petitioner herein encroached the public road in Survey No.17/1 and that the first respondent herein is taking steps to remove the encroachment through the concerned authorities.

5. Even assuming them, Survey No.17/1 is classified as National Highways, the respondents 2 to 5 herein are the concerned authorities to take appropriate action against the petitioner herein. Therefore, the first respondent herein is not necessary party to decide the suit.

6. In view of the above, the Order dated 14.08.2018 made in I.A.No.37 of 2018 in O.S.No.110 of 2017 on the file of the District Munsif Court, Rasipuram is set aside. However, it is made clear that the respondents 2 to 5 are at liberty to take appropriate action as against the petitioner herein, if he encroached the public road comprised in Survey No.17/1 even pending the suit.

7. Accordingly, this Civil Revision Petition is allowed. No order as to costs. Consequently, the connected miscellaneous petition is closed.

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20.07.2021

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
rna

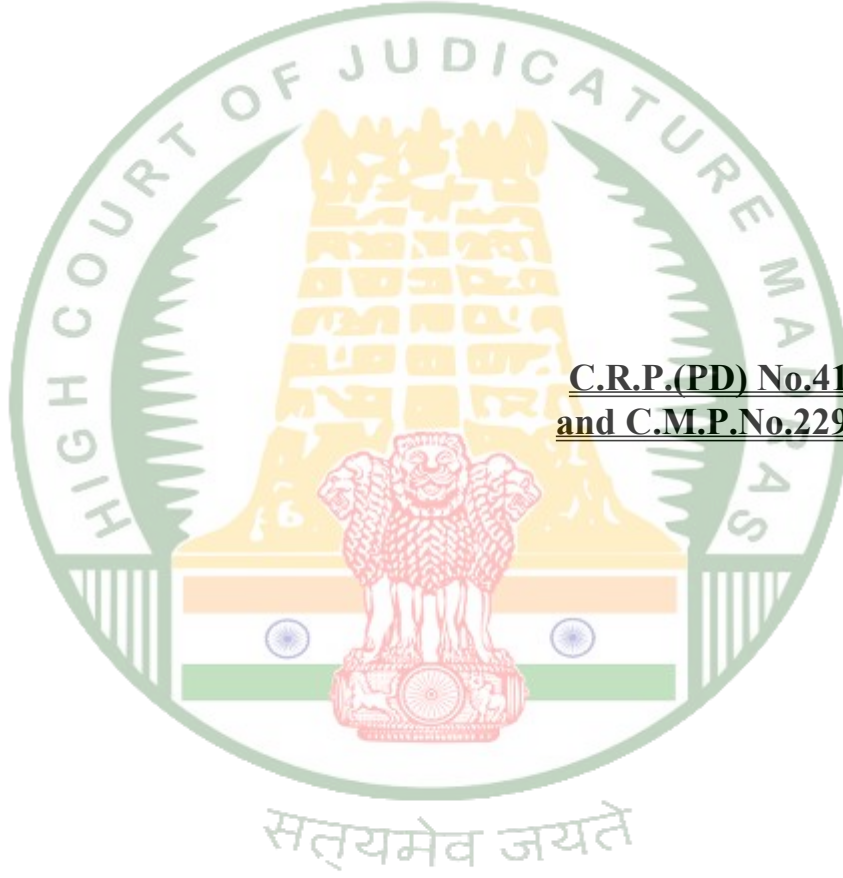
To

- 1.The District Munsif Court,
Rasipuram.
- 2.The Assistant Executive Engineer,
Highways Department Office,
Highways Department,
Rasipuram.
- 3.The Tahsildar,
Taluk Office,
Rasipuram Town & Taluk,
Namakkal District.
- 4.The Revenue Inspector,
Revenue Inspector Office,
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Namakkal District.
- 5.The Village Administrative Officer,
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G.K.ILANTHIRAIYAN. J,

rna



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