



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2021

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

**C.R.P. (MD)No.153 of 2021
and C.M.P. (MD)No.926 of 2021**

1.Poovayi
2.Pandiammal
3.M.Mariappan
4.Subulakshmi
5.Selvam
6.Vasantham
7.Maruthayee
8.Muthulakshmi

... Petitioners

Vs.

1.Vijaya

2.Muthu

... Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records pertaining to the impugned order passed by the learned Principal District Munsif, Aruppukottai in I.A.No.2 of 2019 in O.S.No.391 of 2013, dated 06.01.2021 and set aside the same.

For Petitioners : Mr.K.Prabhu

ORDER

This civil revision petition has been filed to set aside the impugned order passed by the learned Principal District Munsif, Aruppukottai in I.A.No.2 of 2019 in O.S.No.391 of 2013, dated 06.01.2021.

2.The petitioners herein are the plaintiffs in a suit in O.S.No.391 of 2013. The said suit was filed for declaration to declare the plaintiffs are the absolute owner of the suit property and for permanent injunction restraining the defendants from interfering in the peaceful possession of the suit property. During pendency of the above said suit, the petitioners filed an interlocutory application in I.A.No.2 of 2019 in O.S.No.391 of 2013 to amend the prayer for mandatory injunction as respondents erected pillars around the suit property. The Court below dismissed the above said interlocutory application. Aggrieved



over the same, the petitioners filed the present civil revision petition.

3.The learned counsel appearing for the petitioner would state that the Court below ought to have seen that there are no averments made by the respondents herein about the erection of 16 pillars in the suit property in the written statement filed in the Court below dated 24.02.2014. He would further submit that the said 16 pillars are erected only during the year 2018 the written statement of the respondent does not stated anything about the erection of that pillars. The Court below ought to have seen that the petitioner herein filed the interlocutory application within the time frame. However, the Court below dismissed the application.

4.Heard the learned counsel appearing for the petitioners.

5.Admittedly, the suit is of the year 2013 and the issues have been framed as early as in the year 2015 and the case was posted for trial. Since there was no progress in the case, the learned Judge posted the case either for trial or for dismissal. At this stage, the petitioners have come forward with the present petition for amendment by producing three photographs before the Court. Perusal of the records further shows that the petitioners filed an application in I.A.No.1 of 2019 under Order 26 Rule 9 C.P.C., for appointment of Advocate Commissioner and the same was dismissed. Against which, civil revision petition was filed in C.R.P.(MD) No.1148 of 2019 before this Court and the same was also dismissed by this Court on 02.08.2019. Now, the petitioners have come forward with the present petition for amendment by stating that the respondents encroached the property. Even while filing I.A.No.1 of 2019, there was no averment as to the fact that the respondents encroached the property. The petitioners filed petitions one after another only to drag on the proceedings. The learned Judge finding that there is no merits in the petition, has dismissed the same where I do not find any infirmity and the interference of this Court is not warranted. Accordingly, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

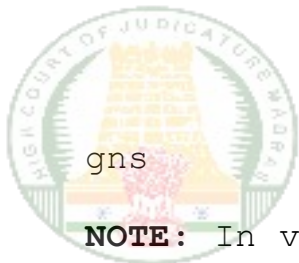
Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



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NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To
The Principal District Munsif,
Aruppukottai.

Copy to
The Section Officer, VR Section-2 copies
Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.K.PRABHU, Advocate (SR-4133[F] dated 09/02/2021)

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KM (03.03.2021) 3P 5C