



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.P. (MD)No.9445 of 2021

in

S.A.No.978 of 2004

WEB COPY

1.S.Mandiramurthy

2.S.Balakrishnan

... Petitioners/Appellants

vs.

1.Naidu Mahajana Sangam,
Thoothukudi,
Represented by its President,
S.R.Rengaramanujam

2.Muthusamy Naidu

3.S.Mariammal

4.Peachiammal

5.Rohini

... Respondents/ Respondents

PRAYER : Civil Miscellaneous Petition filed under Section 151 of Cr.P.C, to pass an order of direction directing the first respondent to restore the Status-Quo Ante by removing the generator and any other encroachment made by the first respondent in the suit schedule property bearing Door No.247A/A situated in T.S.No.1376/2A, Palayamkottai road, Thoothukudi.

For Petitioners : Mr.G.Prabhu Rajadurai

For Respondents : Mrs.N.Krishnaveni,
Senior Counsel
for P.Thiyagarajan for R1
R2 to R5 - Given up

O R D E R



The appellants in S.A.No.978 of 2004 have filed this Civil Miscellaneous Petition after the disposal of the second appeal.

2. The learned counsel for the petitioners reiterated all the contentions set out in the affidavit filed in support of this Civil Miscellaneous Petition.

3. I am not persuaded by the said submission. As rightly pointed out by the learned Senior counsel for the first respondent, the suit was filed by the appellants' father for bare injunction of according to the petitioners, the first respondent encroached upon the suit property during the pendency of the suit, then amendment should have been made to the plaint seeking restoration of the Status-Quo ante. It is not open to the petitioners to ask for such restoration after the disposal of the second appeal. This Civil Miscellaneous Petition is dismissed as not maintainable.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

CSM

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

1.The Subordinate Judge,
Thoothukudi.

2.The District Munsif,
Thoothukudi.

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in
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RD(20/12/2021) 2P 3C