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C.R.P(PD). No.392 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2022

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THE HONOURABLE **MS.JUSTICE P.T. ASHA**

C.R.P(PD). No.392 of 2022

and

C.M.P. Nos.2043 & 2045 of 2022

Marayee

.. Petitioner

Vs

- 1.Magudapathi
- 2.Mohanraj
- 3.Latha
- 4.The Superintending Engineer,
TANGEDCO,
Thiruchengode Road, Namakkal,
Namakkal District.
- 5.The Executive Engineer,
TNEB, Vellur Town,
Paramathy Vellur Taluk,
Namakkal District.
- 6.The Assistant Executive Engineer,
TNEB, Vellur Town,
Paramathy Vellur Taluk,
Namakkal District.



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7.The Assistant Engineer (O & M),
TNEB, Vellur Town,
Paramathy Vellur Taluk,
Namakkal District.

8.The Junior Engineer,
TNEB, Kabilarmalai,
TNEB, Vellur Town,
Paramathy Vellur Taluk,
Namakkal District.

.. Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India against the Judgment and Decree dated 20.10.2021 passed by the Subordinate Court, Paramathy made in C.M.A.No.9 of 2018 in reversing the fair and decreetal order in I.A.No.649 of 2017 in O.S.No.111 of 2017 on the file of District Munsif, Paramathy dated 28.04.2018.

For Petitioner : Mr.I.Abrar Mohamed Abdullah

ORDER

This Civil Revision Petition is filed against the judgment and decree dated 20.10.2021 passed by the learned Subordinate Judge, Paramathy in C.M.A.No.9 of 2018, reversing the order of injunction granted in I.A.No.649 of 2017 in O.S.No.111 of 2017 on the file of the District Munsif, Paramathy dated 28.04.2018.



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2. The plaintiff is the petitioner before this Court. The plaintiff has filed a suit in O.S.No.111 of 2017 on the file of the District Munsif, Paramathy against the respondents 1 to 3 herein, who were arrayed as defendants 6 to 8 therein and TANGEDCO and its officials, who were arrayed as defendants 1 to 5 therein.

3. It is the case of the plaintiff that she is the owner of the suit schedule property on the basis of a Will executed by her father. Consequent thereto, she executed a registered Settlement Deed dated 27.08.1993 and settled the suit schedule properties in favour of her son Rajendran. She had thereafter cancelled the settlement deed by a Cancellation Deed dated 17.05.1995. Therefore, she is the owner of the entire suit schedule properties. It is her case that a Well existed in the suit schedule property comprised in S.No.146/1A measuring about 0.20 cents in which, the plaintiff and one Ramasamy were entitled to equal share. The



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said Ramasamy executed an agreement of sale in favour of one Perumal and after the death of Ramasamy, Perumal instituted a suit for specific performance against the said Ramasamy and obtained a decree for specific performance. It appears that respondents 1 to 3/defendants 6 to 8 had purchased the property from Ramasamy's daughter and the dispute as to title is pending between the said Perumal and respondents 1 to 3 herein in O.S.No.190 of 2010 on the file of the Subordinate Judge, Namakkal. Since the respondents 1 to 3 were attempting to get service connection in the common Well by transferring the same into their name, the plaintiff has come forward with the suit to restrain the respondents 4 to 8/defendants 1 to 5 by means of an injunction from effecting any service connection till final adjudication between the said Perumal and respondents 1 to 3 is arrived at. In the suit in O.S.No.190 of 2010, the plaintiff had filed I.A.No.649 of 2017 for an ad-interim injunction and by an order dated 28.04.2018 the plaintiff had been granted an ad-interim injunction. This



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was challenged by the respondents 1 to 3 herein/defendants 6 to 8 in C.M.A.No.9 of 2018. The learned Subordinate Judge, Paramathy by an order dated 20.10.2021 was pleased to set aside the Judgment and Decree of the learned District Munsif, Paramathy in I.A.No.649 of 2017. The Appellate Court had observed that the plaintiff has not filed the suit with respect to the 1/2 share owned by her. But has filed a suit with respect to the 1/2 share in respect of which, proceedings are pending before the Subordinate Judge, Namakkal. The learned Single Judge, therefore, allowed the application stating that it is not the plaintiff's case that there is an interference with respect to her 1/2 share. Challenging the said order, the revision petitioner/plaintiff is before this Court.

4. Mr.I.Abrar Mohamed Abdullah, learned counsel appearing on behalf of the petitioner/plaintiff would submit that the sale deed in favour of the respondents 1 to 3/defendants 6 to 8 is a fraudulent one, since



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the father Ramasamy had entered into an agreement to sell the property to one Perumal. Perumal filed a suit for specific performance and obtained a decree. The daughter of Ramasamy Gounder, the original owner had sold the property to respondents 1 to 3/defendants 6 to 8. The property, which is the subject matter of the suit in O.S.No.190 of 2010 is the other 1/2 share of the suit schedule property. He would submit that without their title being declared, the respondents 1 to 3/defendants 6 to 8 cannot be permitted to get a service connection in their favour, since they would start drawing water from the Well to irrigate, the extent of which is not known to the plaintiff. This would cause immense hardship to the plaintiff. Therefore, the Appellate Court had not considered the above and simply set aside the judgment and decree of the learned District Munsif, Paramathy.

5. Heard the learned counsel for the petitioner and perused the records.



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6. It is admitted that petitioner's right to draw water from the Well or her right to the 1/2 share has not been interfered with. Therefore, there is no threat to the plaintiff's possession and enjoyment of her 1/2 share in the suit property. The plaintiff appears to be fighting the battle of the said Perumal, as proceedings were already pending between the Perumal and respondents 1 to 3/defendants 6 to 8 in O.S.No.190 of 2010 on the file of the Subordinate Judge, Namakkal. The said Perumal has to be aggrieved about the grant of electricity service connection to the respondents 1 to 3/defendants 6 to 8 and the plaintiff cannot injunct them from obtaining a connection with respect to other 1/2 share, if there is no contest or objection from the said Perumal. The Appellate Court has rightly analyzed the above and passed orders setting aside the order passed by the learned District Munsif, Paramathy.

7. Considering the fact that a well reasoned order has been passed, I do not find any reason to interfere with the same and accordingly,



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P.T. ASHA, J

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this Civil Revision Petition stands dismissed. No costs. Consequently,
connected Civil Miscellaneous Petitions are closed.

22.02.2022

Internet : Yes/No

Index : Yes/No

Speaking/Non speaking

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To

1.The Subordinate Judge,
Paramathy.

2.The District Munsif,
Paramathy.

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and

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