



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:06.05.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P. (PD) (MD) .No.1061 of 2022

and

C.M.P. (MD) .No.4243 of 2022

Sekar

... Revision Petitioner /
3rd Respondent/3rd Respondent/
3rd Defendant

vs.

1.Palpandiyan

2.The President,

Vellimalai Pnachayat,
Thirunainarkurichi,
Ammandivilai Post,
Kadiyapattanam Village,
Kalkulam Taluk,
Kanyakumari District.

... 1st Respondent/Petitioner/
Petitioner/Plaintiff

3.The Executive Officer,

Vellimalai Panchayat,
Thirunainarkurichi,
Ammandivilai Post,
Kadiyapattanam Village,
Kalkulam Taluk,
Kanyakumari District.

4.Anbazhagan

... Respondents 2 to 4/ Respondent 1,2&4/
Respondent 1,2&4/ Defendants 1,2,&4

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 08.04.2022 passed in E.A.No.4 of 2022 in E.P.No.24 of 2014 in O.S.No.102 of 2010 on the file of the District Munsif, Eraniel.

For Petitioner

: Mr.M.R.Sreenivasan

O R D E R

This Civil Revision Petition is filed challenging the order of the learned District Munsif, Eraniel dated 08.04.2022 in E.A.No.4 of 2022 in E.P.No.24 of 2014, whereby the learned District Munsif had ordered the Commissioner along with the local Surveyor to demarcate



the suit schedule property, so that the decree in favour of the plaintiff that the defendants should not interfere in his action of putting up the compound wall in the schedule property is actually executed / put into use by the plaintiff.

2. The grievance of the petitioner is that in the name of execution of the decree, without giving the exact schedule of property contained in the decree, a different schedule is sought to be given in the execution petition prayer and in the guise of execution of the decree, the plaintiff is attempting to encroach on some other property. Secondly, when the police protection is granted, there is no logic in total debarring the petitioner to be present at the site and the petitioner is the person, who knows the exact boundary.

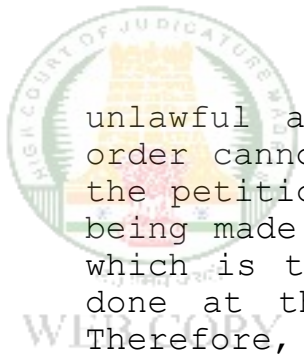
3. I have considered the submissions made by the learned counsel for the petitioner.

4. I have perused the material records of the case.

5. From the order under revision, it is clear that the decree is of the year 2011 and the execution petition is of the year 2014. Therefore, when the Court had considered the failure of repeated attempts of the plaintiff to put up the compound wall and passed an order, for the grievances raised by the petitioner herein, the execution of the order ie., the plaintiff putting up the compound wall as per the decree should not be delayed any further and therefore, even though the petitioner is complaining of not grant of opportunity while granting police protection and allowing the E.A., I am not inclined to accept any of the submissions in view of the huge lapse of time. The decree of Court of law can never be allowed to be remain only on paper without the party enjoying the fruits of it.

6. As far as the first grievance of the petitioner that the plaintiff is giving a different schedule of property is concerned, the same is taken care of by the order under revision itself, as the Court has observed in paragraph - 3 itself, whereunder it has been clearly mentioned that the suit property has to be measured only as per the resurvey plan, which is in consonance with the decree.

7. The other objection is that when police protection is ordered, permitting the petitioner's Advocate alone and not permitting the petitioner, is uncalled for. If the petitioner or any other person is present as a group and they are interfering with the duties of the Officers of the Court, certainly they can be removed from the spot. I am of the view that no objection can be taken for the petitioner alone being present as he is a party to the proceedings. When the police officials are there, especially when protection is ordered by the learned Munsif and is approved by this



unlawful activity. Therefore, even though normally modifying the order cannot be done at the admission stage without the presence of the petitioner / decree holder, in view of the limited modification being made that too in the interest of the execution of the decree which is touching upon the majesty of the Court also, the same is done at the admission stage itself to avoid any further delay. Therefore, this Civil Revision Petition is disposed of with the only modification that the petitioner alone can be present during inspection along with his counsel and he can point out in a lawful manner as to the boundaries to his knowledge.

8. With this modification, the rest of the order passed by the learned District Munsif is confirmed. There will be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Vacation
Officer)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

akv/ebsi

To

1.The District Munsif, Eraniel.

2.The President,
Vellimalai Pnachayat,
Thirunainarkurichi, Ammandivilai Post,
Kadiyapattanam Village,
Kalkulam Taluk, Kanyakumari District.

3.The Executive Officer,
Vellimalai Panchayat,
Thirunainarkurichi,
Ammandivilai Post,
Kadiyapattanam Village,
Kalkulam Taluk, Kanyakumari District.

+1 CC to M/s.M.R. SREENIVASAN, Advocate (SR-23558[F] dated
06/05/2022)

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