



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.11.2023

CORAM:

THE HONOURABLE MRS.JUSTICE T.V. TAMILSELVI

**C.R.P.(PD).No.2108 of 2023
and C.M.P.No.12880 of 2023**

Rukmani

... Petitioner

Vs.

1. Amirthammal
2. E. Deepa
3. Gunasekaran
4. Kothai
5. The Block Development Officer,
(Village Panchayat)
Block Development)Thani
Respondents

...

Civil Revision Petition filed under Section 227 of the Constitution of India to set aside the fair and decretal order dated 07.06.2023 passed in I.A.No.493 of 2022 in O.S.No.52 of 2017 on the file of Additional District Munsif Court, Tindivanam, Villupuram District and allow the same.

For Petitioner : Mr.V.Regunathan

For Respondents : Mr.P.Kannan for R1
R2, R3 & R5 - Exparte



R4 – No appearance
ORDER

The present civil revision petition has been filed to set aside the fair and decreetal order dated 07.06.2023 passed in I.A.No.493 of 2022 in O.S.No.52 of 2017 on the file of Additional District Munsif Court, Tindivanam, Villupuram District and allow the same.

2. The learned counsel appearing for the petitioner submitted that the 1st respondent herein has filed the suit for the relief of declaration and permanent injunction against the petitioner herein. Thereafter, the petitioner filed the written statement and contested the case and submitted that the evidence of the plaintiff was over and the case was posted for cross examination of DW1, at this stage the 1st respondent herein filed an application Order 1 Rule 10 (2) of CPC to implead the 5th respondent as proposed party. The plaintiff in the suit filed an interim application in I.A.No.206 of 2021 under Order 39 Rule 1 and 2 was also dismissed by the trial Court on 05.01.2022. After the dismissal of the application, the plaintiff filed another I.A to implead the proposed respondent only to drag on the matter, DW1 chief examination completed on 20.09.2022, till date the plaintiff has not chosen to cross examine the



witness, but filed application after application to drag on the case.

3. He further submitted that the 1st respondent / plaintiff herself admitted in the plaint that the “B” schedule boundaries are North to A schedule, south to S.No.77/23, East to S.No.77/23A, West to 20 feet street and now she is claiming that the 20 feet street is exclusive for herself is against her own document, and the same was handed over to village panchayat, the village panchayat laid road and other facilities and it is only common passage. The plaintiffs husband admits in his cross examination that he only cause hindrance to the public to using the common road and in the cross examination he stated that for road also he paid money and the same was not stated in the plaint. Further the plaintiff's husband in connivance with the plaintiff dragging the matter as his convenience for the past 6 years. He further submitted that the plaintiff did not enter the witness box, her husband alone entered the witness box and admitted that the 20 feet street is common for all and he only caused hindrance to the public to using the road, at the time of cross examination of DW1 only the plaintiff filed an application in I.A.No.493 of 2022 to implead the 5th respondent as proposed party is only to drag on



the case and the application was allowed by the trial Court. Aggrieved by the order passed by the trial Court the petitioner preferred the present civil revision petition.

4. The respondents 2, 3 and 5 are set exparte before the trial Court. Though notice served on the 4th respondent none appeared on behalf of the 4th respondent.

5. Heard the learned counsel for the petitioner and the learned counsel appearing for the 1st respondent and perused the materials available on record.

6. It is seen that O.S.No.52 of 2017 is pending trial and in view of the submissions made by the learned counsel on either side, since the suit trial is in cross examination of DW1, the trial Court is directed to complete the trial within a period of three months from the date of receipt of a copy of this order.



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7. With these observations, the Civil Revision Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
dpq

08.11.2023

To

1. The Additional District Munsif Court,
Tindivanam, Villupuram District



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T.V. THAMILSELVI, J.

dpq

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