



CRP No.4083 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2023

CORAM :

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

C.R.P.No.4083 of 2023

and

CMP.No.24982 of 2023

1.M.Vinoth Mani

2.Udhayarajan

3.Ethiraj Ammal (died)

4.Vijaya

5.Dhatchayani

...

Petitioners

(cause title accepted vide Court
order dated 17.10.2023 made in
CMP.No.17903 of 2023 in
CRP SR No.90731 of 2023)

/vs/

1.T.Pushparan

2.The Assistant Engineer,

Tamil Nadu Electricity Board,

Puzhal, Chennai – 600 066.

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Respondents

PRAYER: Civil Revision Petition has been filed under Article 227 of Constitution of India to reject the plaint in O.S.No.149 of 2020 pending on the file of the District Munsif cum Judicial Magistrate, Madhavaram by allowing the CRP with cost.

For Petitioners : Ms. K.Sasikala



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ORDER

The revision petitioners/defendants 1 to 5 have approached this Court to strike off the plaint in O.S.No.149 of 2020 stating that the plaint is not maintainable for the reason that the plaintiff is an encroacher filed a suit based on the false allegation as well as unregistered sale deed.

2.Heard the submission made by the learned counsel appearing for the revision petitioners.

3.Before the trial Court, the first respondent/plaintiff filed a suit for permanent injunction and other reliefs against the revision petitioners/defendants and others. On receipt of notice, the revision petitioners appeared and filed their written statement much earlier on 21.08.2021. Subsequently, the first petitioner/first defendant filed a writ petition in W.P.No.4039 of 2021 praying for issuance of a writ of mandamus directing the respondents 1 to 3 therein to take action against the fourth respondent/first respondent herein to remove the unauthorised construction made in the petitioner's property situated at plot No.7 measuring 1525 sq.ft., in Survey No.15/2B at Moorthi Nagra, Kathirvedu village, Madhavaram Taluk,

Chennai 600 066 as per the petitioner's representation dated 16.12.2020 and



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the writ petition was ordered by this Court on 24.02.2021 stating that

“Though the petitioner has prayed for a larger relief, this Court in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, either in his representation or in this writ petition, directs the 2nd respondent to put the petitioner as well as the 4th respondent on notice and thereafter, cause inspection of the alleged unauthorised constructing being undertaken by the 4th respondent and if the result of the inspection reveals any infraction /violation of the relevant provisions of law/ Regulations, shall take immediate, necessary and appropriate action in accordance with law, by also adhearing to the principles of natural justice and complete the said exercise as expeditiously as possible and not later than eight weeks from the date of receipt of a copy of this order/uploading of the order in the website and communicate the decision taken, to the petitioner as well as to the 4th respondent herein.”

4. Based on that, the unauthorized construction was sealed by the authority, however, based on the unregistered sale deed, the first respondent/plaintiff has filed the suit in respect of the property which was purchased by his father against which the revision petitioners approached this

Court to reject the plaint but the relief claimed in the suit for permanent



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injunction. As on date, the unauthorized construction was sealed by the authority as per the direction given by this Court. Therefore, the reason assigned by the revision petitioners to reject the plaint is subject to question of fact and law. Therefore, this Court is directed to the trial Judge to dispose of the suit within a period of six months from the date of receipt of an order.

With the above direction, the civil revision petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Index : Yes/No

09.11.2023

Internet: Yes/No

sms

To

1. The Assistant Engineer,
Tamil Nadu Electricity Board,
Puzhal, Chennai – 600 066.
2. The District Munsif cum Judicial Magistrate,
Madhavaram



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T.V.THAMILSELVI, J.

sms

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