



CRP(PD)No.3680 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.10.2023

CORAM :

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

C.R.P(PD)No.3680 of 2023

and

C.M.P.No.23082 of 2023

1. Nachammal

2. Chokanaathan

3. Thirumalai samy

4. Narayanan

5. Venkatachalam

... Petitioners

Versus

N. Arulprakasam

...Respondent

Civil Revision Petition filed Under Article 227 of Constitution of India, praying to set aside the fair and decreetal order dated 26.07.2023 in I.A.No.4 of 2023 in O.S.No.217 of 2022 on the file of the District Munsif Court at Suler, Coimbatore District and pass orders.

For Petitioner : Mr.A. Lobamudra

ORDER

This petition is filed to set aside the fair and decreetal order dated 26.07.2023 in I.A.No.4 of 2023 in O.S.No.217 of 2022 on the file of the District Munsif Court at Suler, Coimbatore District.



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2. The case of the petitioners herein is that they have filed a petition in I.A.No. 4 of 2023 in O.S.No.217 of 2022 under Order 7 Rule 11 of C.P.C to reject the plaint and the same was dismissed vide order dated 26.07.2023. Aggrieved over the same, the petitioner has come up with this petition.

3. The learned counsel for the petitioner submitted that the respondents has no right over the cart path which is the subject matter of this petition. He further submitted that the respondents have created a fraudulent document and created a right of cart path. He further submitted that the trial Court failed to consider the fact that the respondent failed to state that how they acquire right over the cart path and the said factum was not taken note of by the learned Judge and passed the impugned order mechanically. Hence he prays to allow this petition.

4. On a perusal of the records it is seen that originally the suit was filed in O.S.No.217 of 2022 by the respondent restraining the petitioner from interfering the property and when the same was pending the I.A. was filed under Order 7 Rule 11 of C.P.C to reject the plaint and the same was dismissed vide order dated 26.07.2023. However, in the impugned order the learned Judge has made an observation that the issue with regard to the right



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of cart path has to be decided only at the time of trial and not in the petition filed under Order 7 Rule 11 of C.P.C which does not require interference by this Court and the same is hereby confirmed.

5. In view of the above the learned District Munsif Court at Sulur, Coimbatore District is directed to dispose the suit in O.S.No.217 of 2022 within a period of four months from the date of receipt of the copy of this Order.

6. With the above observations, this civil revision petition is disposed of No order as to costs. Consequently, the connected miscellaneous petition is closed.

11.10.2023

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation: Yes/No
smn

To

- 1.The District Munsif Court at Sulur, Coimbatore District
- 2.The Section Officer,
VR-Section, High Court of Madras.



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T.V.THAMILSELVI, J.

smn

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