



WEB COPY



CRP Nos.4315, 4316 & 4317 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2023

CORAM :

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

Civil Revision Petition Nos.4315, 4316 & 4317 of 2023
and
C.M.P. Nos. 26278, 26281 & 26284 of 2023

- 1.A.Balasubramaniam
- 2.A.Natarajan
- 3.A.Parameswaran
- 4.A.Perumal
- 5.A.Govindarajan
- 6.A.Vairamani

... Petitioners in all CRPs

Versus

- 1.Balaji @ Palaniappan
- 2.The Assistant Engineer
Operation & Management
Tamil Nadu Electricity Board,
Salem.
- 3.The Executive Engineer
Tamil Nadu Electricity Board,
Salem.
- 4.The Superintendent Engineer
Udayapatty, Salem.

...Respondents in all CRPs

COMMON PRAYER: Civil Revision Petitions filed Under Article 227 of the Constitution of India, praying to set aside the order dated 16.10.2023 made in I.A.Nos.3, 4 & 2 of 2023 respectively, in O.S.No.689 of 2007 on the file of the III Additional District Munsif, Salem.



CRP Nos.4315, 4316 & 4317 of 2023

For Petitioners in all CRPs : Mr. A.V.Arun

For R1 in all CRPs : Mr. P.Raja

COMMON ORDER

The petitioners have filed these revision petitions to set aside the order dated 16.10.2023 made in I.A.Nos.3, 4 & 2 of 2023 respectively, in O.S.No.689 of 2007 on the file of the III Additional District Munsif, Salem.

2. Heard, Mr.A.V.Arun, learned counsel for the petitioners and Mr.P.Raja, learned counsel appearing for the 1st respondent and perused the materials available on record.

3. The 1st respondent / plaintiff has filed a suit claiming pathway right over the property. The first respondent has filed a suit for mandatory injunction to direct the Electricity board / EB officials to effect service connection to the plaintiff's house, in which he has filed a petition for mandatory injunction. In that suit, the revision petitioners are D4 to 7, 9 & 10 and other defendants 1 to 3 are Electricity Official of, whom have contested the suit.

4. The defendants have contested the suit by denying the plaintiff's right,



CRP Nos.4315, 4316 & 4317 of 2023

over the suit property. Now the suit is ripe for trial and evidence is also over and it is posted for arguments, and at that stage, the revision petitioners have filed the application I.A.No.2 of 2023 in O.S.No.689 of 2007, to re-open and recall the witnesses and wanted to produce additional documents.

5. The said application was strongly objected by the plaintiff stating that, suit is pending from the year 2007, only in respect of directing the EB officials to provide electricity connection. The Second Appeal Nos.990 & 991 of 2006 were filed by the revision petitioners which is no way connected with the present suit proceedings. Considering both sides' submissions, the learned trial Judge held that the documents sought to be adduced on the side of the revision petitioners, are no way relevant to the proceedings and already, there was a compromise decree relied on by the revision petitioners, but the plaintiff is claiming pathway right over the suit property, based on the ex-parte decree passed in O.S.No.299 of 1993, but the revision petitioners are challenging the suit in O.S.No.313 of 2004 as well as O.S.No.909 of 2002, against which they have preferred CMP.No.16478 of 2021 and CMP.No.14338 of 2021 for restoration of S.A.No.990 of 2006 and 991 of 2006 and CMP.No.19233 of 2021 against the CRP.No.530 of 2009. As on date, the revision petition is pending, and therefore, the documents sought to be produced by the



CRP Nos.4315, 4316 & 4317 of 2023

defendants are no way relevant to the proceedings, and no proper reason was assigned by the party.

6. The learned counsel for the revision Petitioners submitted that the present suit was filed in the year 2007, but before that, there was a suit proceedings in O.S.Nos.313 of 2004 and 909 of 2002, between the same parties. Now, aggrieved by the findings of the Court below, they preferred S.A.Nos.990 and 991 of 2006 before this Court. Due to the dismissal of the Second Appeals, the present suit is ripe for trial. However, they filed CMPs for restoration of the second appeals and the same is pending on the date. Admittedly, stay was granted before this Court, and now the petitioners wanted to mark the documents which are no prejudicial to the case of the plaintiff. If opportunity is not given to them, valuable right to defend their case will be defeated. Therefore no prejudice would be caused by marking the Court records. Hence, all the application in I.A.Nos.3, 4 & 2 of 2023 respectively, in O.S.No.689 of 2007 are allowed. Both the parties are directed to co-operate for the suit proceedings.

7. Accordingly, these Civil Revision Petitions are allowed. Consequently, connected miscellaneous petitions are closed. There shall be no



CRP Nos.4315, 4316 & 4317 of 2023

order as to costs.

WEB COPY

20.11.2023

Index : Yes/No

Speaking/Non Speaking order

Neutral Citation:Yes/No

rri

To

1. The III Additional District Munsif, Salem.

2.The Section Officer,
VR-Section, High Court of Madras.



WEB COPY



CRP Nos.4315, 4316 & 4317 of 2023

rri

Civil Revision Petition Nos.4315, 4316 & 4317 of 2023
and
C.M.P. Nos. 26278, 26281 & 26284 of 2023

20.11.2023