



C.R.P(MD)No.1116 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.04.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.1116 of 2023

and

C.M.P(MD)No.5367 of 2023

- 1.The Chairman,
Tamil Nadu Electricity Board,
Office situated at Annasalai,
Chennai-600002.
- 2.The Superintending Engineer,
Tamil Nadu Electricity Board,
Maharaja Nagar,
Tirunelveli-6627001.
- 3.The Executive Engineer,
Non Conventional Energy Resource,
Maharaja Nagar,
Tirunelveli-6627001.

...Petitioners/Petitioners/
1 to 3 Defendants

Vs.

- 1.Jesuraja
- 2.Thangaraja
- 3.Devakani
- 4.Immanuvel
- 5.Selvaraj



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6.Pakkiya Selvi

7.Anith

8.Meribai

9.RRB Energy Limited,
Through its Managing Director,
182/2, By-Pass Road,
Poonthamalli,
Chennai-56.

... 2 to 9 Respondents/
2 to 9 Respondents/
4 to 11 Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and executable order passed by the learned Additional District Munsif, Valliyoor in I.A.No.9 of 2022 in O.S.No.62 of 2014 on 01.03.2023 and to receive the additional written statement.

For Petitioners : Mr.B.Ramanathan

For R1 (Caveator) : Mr.M.Subbiah

ORDER

The present Civil Revision Petition has been filed against the fair and executable order passed by the learned Additional District Munsif, Valliyoor in I.A.No.9 of 2022 in O.S.No.62 of 2014 on 01.03.2023 and to receive the additional written statement.



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2. The petitioners are the defendants 1 to 3 in O.S.No.62 of 2014 on the file of the Additional District Munsif Court, Vallioor. The suit was filed by the first respondent herein for declaration and recovery of possession and mandatory injunction in respect of the third item of the suit schedule property.

3. The petitioners, who are the defendants 1 to 3 in O.S.No.62 of 2014 have also filed their written statement as early as on 27.03.2014. The second witness of the defendant was also examined. The facts on record indicate that the petitioners have been prolonging the longevity of the final disposal of the suit that was filed as early as in the year 2014.

4. Earlier, the petitioner appears to have filed an application in I.A.No.1 of 2020 for introducing additional documents at the stage of examination of D.W.1. This application was dismissed and thereafter, the application in I.A.Nos.3 and 4 of 2020 were filed for condone the delay and allowing the marking of the additional documents. This application was allowed and thereafter, D.W.1 was examined on 18.12.2020. The petitioner appears to have filed I.A.No.6 of 2022 to summon and examine Village Administrative Officer. This was also allowed by the



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Court. However, they did not proceed to examine the Village

Administrative Officer and therefore, the evidence of D.W.2 was closed.

Thereafter, I.A.Nos.7 and 8 was filed for the same relief, which was also allowed. Thereafter, the petitioner filed I.A.No.9 of 2022 for receiving additional written statement under Order 8 Rule 9 of C.P.C.

5. By the impugned order, the Additional District Munsif Court, Valliyoor has dismissed the above application with the following observations:

Whether the petition is to be allowed or not?

3. Both side counsel reiterated the same facts mentioned in the petition and counter statement in their arguments.

4. On perusal of pleadings, it is founded that suit has been filed in the year of 2014. The petitioner/ Defendant appeared through his counsel on 26.03.2014 and filed written statement on 26.08.2014. PW1 has been examined on 26.02.2018 and PW1's cross examination completed on 27.03.2018 and subsequently, PW2 and PW3 has been examined and cross examined. Plaintiff's side evidence has been closed on 07.11.2020. Subsequently, the case is posted for Petitioner/Defendant side evidence on 24.11.2020. DW1 has been examined on 18.12.2020. After that IA.No.01 of 2020 has been filed by the petitioners to receive additional documents and the same was dismissed for non-appearance of the petitioners. Subsequently, I.A.No. 03 of 2021 and I.A.No. 04 of 2021 has been filed to restore the I.A.No. 01 of 2020, after that DW1 side documents has been marked on



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18.07.2022. After that I.A.No 6/22 and I.A. No 7/22 has been filed by the petitioner to examine witnesses and witnesses appeared before court but failed to examine as witness by petitioners. Later L.A.No 8/22 has been filed to examine witness was allowed and DW2 was examined. After that the Petitioner has filed this application on 20.10.2022.

5. Further, on perusal of Additional written statement it is founded that petitioner taken the plea of limitation and court fee which was already mentioned in the original written statement. In Additional written statement petitioner taken a plea that original owner of Late Appadurai female legal heirs has not been impleaded as parties in suit. The Petitioners/Defendants claiming that the late Appadurai who is the Grand father of plaintiff has a given written consent to establish a power station in the IIIrd schedule property. But, Respondent / Plaintiff claiming no such written consent letter was given by plaintiff's Grand father Appadurai. Appadurai died intestate on 13.01.2004 leaving behind 4th defendant, Plaintiff's father Gnanadhiraviyum and female daughters as his legal heirs. After the death of Appadurai family arrangement was made, as per family arrangement suit Property was allotted to plaintiffs father Gnanadhiraviyum. Later, Gnanadhiraviyum has been died and the suit properties has been allotted to Plaintiff's and 6 to 10 defendants in the suit.

6. In Original written statement petitioner in para 5 mentioned that on the date of death of Appadurai, he had no subsisting interest over the 3 schedule property and hence there is no chance for his legal heirs to inherit the property. But, in Additional Written statement Petitioners/Defendants states that female heirs of Appadurai namely Thiruvallarselvi and Thangaselavam are necessary parties to the suit. So petitioners/Defendants itself taking a contra version to the earlier written statement and taken a new plea of defense in Additional Written statement.

7. Further, petitioners has not stated any valid sufficient reasons for not filing Additional Written statement



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before examination of PW1 to PW3 and DW1,DW2 The intention of the Petitioners/Defendants is only to drag on the proceedings. So the petition lacks bonafide. Therefore, petition deserves to be dismissed.

In the result, Petition is dismissed. No costs.

6. In my view, the application has been rightly rejected by the learned Additional District Munsif, Valliyoor. The impugned order does not call for any interference. In the suit, different I.A.s were filed by the petitioner in I.A.Nos.1, 3 and 4 of 2020 and thereafter filed I.A.Nos.6,7 and 8 of 2022 and after the interlocutory applications were allowed, the petitioners have come out with another application for filing the written statment. Hence, there is a delay in disposal of the suit.

7. A reading of the impugned order also indicates that the petitioner is resorting to dilatory dactics to delay the disposal of the suit. There is no merit in the present civil revision petition.

8. Accordingly, the present Civil Revision Petition stands dismissed with the above observations. The Additional District Munsif Court, Valliyoor is directed to dispose of the suit in O.S.No.62 of 2014 as expeditiously as possible preferably within a period of 9 months from



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the date of receipt of copy of this order. No costs. Consequently,
connected miscellaneous petition is closed.

25.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The Additional District Munsif Court,
Valliyoor.
- 2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

C.SARAVANAN,J.



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