



CRP(MD).NO.1294 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2023

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

CRP(MD).No.1294 of 2022

and

C.M.P(MD).No.5319 of 2022

P.Nirmal Kumar

... Petitioner/ 1<sup>st</sup> Defendant

Vs.

1.Palanisamy  
2.Mariammal  
3.Parvathy  
4.Ayyanar  
5.Rajaguru  
6.Krishnammal  
7.Lakshmi  
8.Poomari  
9.Lakshmi  
10.Selvam

... Respondents/Plaintiffs 1 to 8

... Respondents/Defendants 2 and 3

**PRAYER :** Revision Petition filed under Article 227 of the Constitution of India, to call for the entire records pertaining to the proceedings in O.S.No.237 of 2022 on the file of the learned Principal Subordinate Court, Srivilliputhur, Virudhunagar District and strike off the same

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For Petitioner : Mr.R.Anand  
For Respondents : Mr.S.Muniyandi (for R1 to R8)  
No appearance (for R9 & R10)

### **ORDER**

The present revision petition has been filed to strike off the plaint in O.S.No.237 of 2022 pending on the file of the learned Principal Subordinate Court, Srivilliputhur, Virudhunagar District.

2. The respondents 1 to 8 herein have filed O.S.No.237 of 2022 for the relief of declaration of title and for permanent injunction with regard to 12 cents of land in Survey No.1061. According to the first defendant in the suit, previously his father had filed O.S.No.186 of 2003 on the Principal District Munsif Court, Srivilliputhur, for the relief of declaration of title and recovery of possession as against the first plaintiff and his sister for an extent of 10 cents in Survey No.1061/2. The said suit was decreed on 24.01.2005 and the first defendant's father had filed E.P.No.44 of 2006 and he has taken delivery of property on 12.02.2007. Thereafter, the present suit has been filed by the first defendant in O.S.No.186 of 2003. In the suit the first plaintiff claims for declaration



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of title and permanent injunction for 12 cents of land in Survey No.1061.

Hence, according to the revision petitioner, the present suit is vexatious litigation and abuse of process of Court and seeks indulgence of the Court to strike off the plaint.

3. Per contra, the learned counsel appearing for the respondents/plaintiffs had contended that in the first suit in O.S.No.186 of 2003, the suit property is 10 cents in Survey No.1061/2, but on the other hand, the present suit is for 12 cents in Survey No.1061. According to the learned counsel appearing for the respondents/plaintiffs, the present suit is for a different property. He further contended that the property which is the subject matter of O.S.No.186 of 2003 is not the subject matter of the present suit and hence, he will not disturb the possession of the first defendant's father's property, which he has taken delivery in O.S.No.186 of 2003.

4. This is the triable issue and it has to be decided only during trial.



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5. Recording the submission of the learned counsel for the respondents/Plaintiffs, the Civil Revision Petition is disposed of directing the parties to let in evidence with regard to the said issue. No costs. Consequently, connected Miscellaneous Petition is closed.

**14.02.2023**

Index : Yes / No  
Internet : Yes / No  
*Rmk*

To  
The Principal Subordinate Judge, Srivilliputhur, Virudhunagar District.



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**R.VIJAYAKUMAR ,J.,**

*Rmk*

Order made in  
**CRP(MD).No.1294 of 2022**

Dated:  
**14.02.2023**