



C.R.P.No.496 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.496 of 2023
and C.M.P.No.4061 of 2023

1.Magudapathi
2.N.Mohanraj
3.Latha

... Petitioners

-Vs-

1.Marayee
2.TANGEDCO
by its Superintending Engineer
Namakkal.
3.Executive Engineer
TNEB, Velur, Paramathy
Velur Taluk.
4.Assistant Executive Engineer
TNEB, Velur, Paramathy Veluk Taluk.
5.Assistant Engineer (O&M)
TNEB, Paramathy.
6.Junior Engineer, TNEB
Kabilamalai, Paramathy Velur Taluk.

... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India to strike off the plaint in suit in O.S.No.111 of 2017 on the file of the District Munsif of Paramathy by allowing the present Civil Revision Petition.



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For Petitioner : Mr.M.Elango
For Respondents : Mr.S.Saravanakumar - for R1
Mr.S.T.Raja - for RR 2 to 6

ORDER

This Civil Revision Petition seeks to strike off the suit in O.S.No.111 of 2017 on the file of the learned District Munsif at Paramathy.

2. This case has a checkered history. The civil revision petitioners are defendants 6 to 8 in O.S.No.111 of 2017. They claim to have purchased the property from one Palaniammal @ Vijayalakshmi in the year 2007. The extent of property purchased by them is comprised in S.No.146/1B, 149/1C to an extent of 4.29 acres together with a common 1/2 share in the well situated in S.No.146/1A to an extent of 20 cents. The first respondent Marayee, who is the plaintiff in O.S.No.111/2017 is the owner of the other 1/2 share in the well.

3. On the strength of the purchase, the civil revision petitioners applied for grant of electricity connection. Being a co-owner, Marayee, the first respondent herein objected to the grant of the same. In the meantime, Marayee's son-in-law Perumal had claimed to have purchased the property pursuant to an exparte decree in O.S.No.568 of 1995. The defendant in that suit was one Ramasamy. He was none else than the father of the vendor of the civil revision petitioners. The vendor presented a suit for permanent injunction against the said Perumal and the suit was decreed. Apart from that, another suit was presented by the very same civil



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revision petitioners in O.S.No.190 of 2010 on the file of the Subordinate Judge, Namakkal seeking to cancel the exparte decree for specific performance obtained in O.S.No.568 of 1995. In the said suit, an application for interim injunction was filed and the injunction was also granted. Both sides concede that the said suit is still pending for consideration before the learned Subordinate Judge at Namakkal.

4. After having suffered an injunction at the hands of the civil revision petitioners, Perumal seems to have set up his mother-in-law to file the present suit. The relief that is sought for in the suit is for permanent injunction not to grant electricity connection pending disposal of the suit in O.S.No.190 of 2010. In this suit, an application was moved by Marayee seeking for interim injunction and the injunction was also granted. The injunction granted by the learned District Munsif, Paramathy seems to be running contrary to the injunction granted in favour of the civil revision petitioners in their suit. Hence, they preferred a Civil Miscellaneous Appeal before the Subordinate Court at Paramathy. The said appeal was allowed dissolving the injunction granted by the learned District Munsif Paramathy on 20.01.2021. Aggrieved by the same, Marayee moved a civil revision petition before this Court in C.R.P.No.392 of 2022. That revision was also dismissed on 22.02.2022.

5. Subsequently, the civil revision petitioners herein filed a revision in C.R.P.No.2287 of 2022 to strike off the suit filed by Perumal in O.S.No.109 of 2022.



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This Court allowed the revision and struck off the suit on 25.07.2022. It transpires in the mean time, representing the interest of the son-in-law Perumal, the mother-in-law Marayee presented O.S.No.111 of 2017. Hence, to strike off this suit the present revision has arisen before this Court.

6. To complete the narration, it becomes necessary to refer to an order passed by this Court in W.P.No.14319 of 2022, wherein the first revision petitioner Magudapathi sought for police protection for grant of electricity connection to the well purchased by them, in which proceeding the present plaintiff was the fifth respondent. After hearing both sides, this Court directed the Electricity Board to consider and pass orders on the application and grant electricity connection if the petitioner is otherwise entitled to it. Now the learned Standing Counsel for the Electricity Board represents that the electricity connection was effected on 14.10.2022.

7. Heard Mr.M.Elango for the petitioners, Mr.S.Saravana Kumar for the first respondent and Mr.S.T.Raja for the respondents 2 to 6.

8. In order to maintain a suit, the plaintiff must show a subsisting right or atleast a semblance of right over the property. It is not disputed by the civil revision petitioners that Marayee is the owner of the other 1/2 share in the well. In fact, Perumal who had staked a claim over the property, had filed a suit and as



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pointed out above, that suit was also struck off by this Court in revision. The said order had attained finality.

9. A suit filed by a person who has no right over the property cannot be sustained on the file of a Court. *Ubi jus ibi remedium* is the principle of law that unless and until the plaintiff shows some right, he is not entitled to any remedy. Apart from that, the suit itself has been framed seeking for a permanent injunction pending disposal of another suit. No suit can be presented as if it is an interim relief pending disposal of another suit.

10. The proper remedy would be to seek for interim injunction in O.S.No.190 of 2010. As Perumal is not in a position to obtain an order in that proceeding, by a clever and adroit drafting, right has been created in favour of Marayee, whereas she has none. The plaint does not show as to how Marayee is interested in the portion that has been purchased by the civil revision petitioners. Unless and until she is able to show that she has a right which is in contradiction to the right that has been sold by Vijayalakshmi in favour of the civil revision petitioners, she certainly cannot interfere with the possession of a co-owner.

11. It has been settled in **Ranipet Municipality represented by its Commissioner -vs- M.Shamsheerkhan [1998 (1) CTC 66]** that a suit presented by a shadow plaintiff is abuse of process of law and should not be kept



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on the file of the Court. As I do not find any semblance of right in favour of Marayee, applying the judgment of **Ranipet Municipality** to the facts of the present case, this Civil Revision Petition is allowed. It is made clear that the electricity connection granted will be subject to the result of the suit in O.S.No.190 of 2010. Costs of Rs.10,000/- shall be paid by the first respondent to the petitioner. Consequently, connected miscellaneous petition is closed.

11.07.2024

Index : Yes/No

Neutral Citation : Yes/No

KST

To

1. The District Munsif
Paramathy.
2. The Subordinate Judge
Namakkal.



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V. LAKSHMINARAYANAN, J.

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