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C.R.P. (PD) No.1335 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

Civil Revision Petition (PD) No.1335 of 2023
and C.M.P.No.8948 of 2023

1.Chandragupa
2.C.Harshavardhan .. Petitioners

Versus

1.Villagers of Ayanambakkam Taluk
Represented by D.Chandrakumar
2.K.Elumalai
3.The Tahsildar
Poonamallee Taluk
Poonamallee.
4.The District Collector
Thiruvallur. .. Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the docket order dated 02.03.2023 passed in I.A.No.3 of 2023 in O.S.No.72 of 2023 on the file of the District Munsif, Poonamallee.

For the Petitioners : Mr.Harshavardhan
for M/s.Dipthi Munoth

For the Respondents : Ms.Tamil Selvi for RR1 & 2
Dr.S.Suriya
Additional Government Pleader
for RR3 & 4



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ORDER

This Civil Revision Petition arises against the order granting permission under Order 1 Rule 8 (1) of Code of Civil Procedure.

2. The Civil Revision Petitioners are the defendants 1 and 2. The plaintiff filed O.S.No.72 of 2023 seeking for a declaration that the suit property is a road and for a consequential injunction restraining the Civil Revision Petitioners from encroaching on to the suit schedule mentioned property or obstructing the same in any manner. They also sought for a mandatory injunction, directing the defendants 3 and 4 to maintain the property as road.

3. The claim of the plaintiff is that about 25,000 villagers are residing in and around the vicinity of the suit property. They would plead that the suit property is a 'Vandi pathai' Government poramboke land. It is being used by the villagers to reach the Tambaram to Maduravoyal 200 feet road. They would state that on 27.02.2023, the defendants 1 and 2 attempted to encroach upon the same and hence, after placing their objections before the Tahsildar – the 3rd defendant they presented the suit. They would plead that since there are



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numerous persons who have interest in the suit property, they sought for permission of the Court under Order 1 Rule 8 of CPC, to file the suit on behalf of themselves and on behalf of the villagers of Ayanambakkam of Ponnammallee Taluk, Kancheepuram District.

4. The learned District Munsif granted the permission, against which, the present Civil Revision Petition.

5. Mr.Harshavardhan, would submit that the mandatory procedure under Order 1 Rule 8 (2) of CPC had not been followed.

6. Per contra, Ms.Tamil Selvi, would state that the process of issuing notice is yet to commence and this revision had been presented immediately and stay had been obtained. As per Order 1 Rule 8 (2) of CPC, a suit can be presented by one person, where there are numerous persons having the same interest in the property, to sue on behalf of all for the benefit of all such persons so interested. Once the Court grants permission under Order 1 Rule 8 (1) (a) of CPC, the Court will then turn to Order 1 Rule 8 (2). Publication of notice under



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Order 1 Rule 8 (2) is mandatory. However, the said stage is yet to arrive in the present suit. Immediately, on grant of leave under Order 1 Rule 8 (1) (a) of CPC this Civil Revision Petition has been presented. Under Order 1 Rule 8 (2), once the permission is granted, then the issue of publication would arise. Permission was granted by the Court on 02.03.2023 and this revision has been presented on 05.04.2023.

7. The submissions of Mr.Harshavardhan that publication is mandatory, is correct. Therefore, while dismissing the revision as premature, the learned District Munsif, is directed to effect publication in all modes which would bring it to the notice of the villagers of Ayanambakkam, that a suit with the relief that has been sought on their behalf has been presented. It is made clear, the learned District Munsif should note that without the mandatory publication under Order 1 Rule 8 (2) of CPC , the suit should not proceed further.

8. With the above direction, this Civil Revision Petition stands dismissed. No costs. Consequently connected miscellaneous petition is closed.



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To
The District Munsif
Poonamallee.



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V.LAKSHMINARAYANAN, J.,

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