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C.R.P.(PD)No.1610 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD)No.1610 of 2024

and

C.M.P.No.8594 of 2024

1.V.Kalaiselvi

2.Balasubramani

3.Vinothini

4.Rajan

5.Elavarasi

.. Petitioners

Vs.

1.Muthusamy

2.Latha

.. Respondents

Prayer : The Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 22.12.2023 passed in C.M.A.No.2 of 2018 on the file of the learned Sub-Court at Rasipuram confirming the fair and decreetal order of the learned District Munsif at Rasipuram dated 13.02.2018 made in I.A.No.938 of 2016 in O.S.No.178 of 2016.



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For Petitioners : Mr.K.R.Samratt

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ORDER

The present revision has been preferred against the order passed in C.M.A.No.2 of 2018 on the file of the learned Subordinate Judge at Rasipuram in confirming the order of interim injunction granted in I.A.No.938 of 2016 in O.S.No.178 of 2016 on the file of the learned District Munsif at Rasipuram.

2. I.A.No.938 of 2016 is an application filed for interim injunction restraining the defendants/civil revision petitioners from interfering with the right of pathway that is enjoyed by the plaintiffs marked as "A, B, C" in the plaint plan. In relation to the same, the learned District Munsif appointed an Advocate Commissioner and received a report.

3. In the report, since the Advocate Commissioner had stated that the access to the property of the plaintiffs is only through "A, B, C" pathway, the learned District Munsif, therefore, had granted the order of interim injunction. This order was confirmed in appeal.



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4. The learned counsel of the revision petitioners would submit that the plaintiffs have an alternate pathway which is situated to the South of the pathway shown as "A, B, C". Therefore, he would state that the plaintiffs would not be prejudiced, in case, the order is set aside and injunction is not granted.

5. The scope of revision under Article 227 of the Constitution of India as against the interlocutory order is very limited. I cannot take another view, if the views taken by the Courts below are plausible. Where two views are possible and the Courts below have taken a different view which as stated above is plausible, then, it should not be interfered with under Article 227 of the Constitution of India because the power of revision does not extend to re-appreciate evidence.

6. If I were to agree with the submissions of the learned counsel for the petitioners, then, I would be doing exactly what I am not supposed to do. Therefore, I am not inclined to interfere with the order of the injunction granted by the learned District Munsif at Rasipuram as confirmed by the learned Subordinate Judge at Rasipuram. However, I notice that the suit has



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been pending from the year 2016 and the parties have been litigating only on interlocutory matters.

8. The learned counsel for the petitioners would submit that the Advocate Commissioner had submitted a final report and that would go in their favour. When the matter is ripe for trial, I do not think it would be proper for me to deal with the interlocutory matters.

9. Therefore, I would request the learned District Munsif - cum - Civil Judge Junior Division at Rasipuram to take up the suit in O.S.No.178 of 2016 and dispose of the same within the period of nine months from the date of receipt of a copy of this order. With the above directions, the Civil Revision Petition stands dismissed. No costs. The connected Civil Miscellaneous Petition is closed.

18.04.2024

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No



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V. LAKSHMINARAYANAN, J.

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To

1.The Sub-Court,
Rasipuram

2.The District Munsif Court,
Rasipuram

C.R.P.(PD)No.1610 of 2024

and

C.M.P.No.8594 of 2024

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