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C.R.P.No.4984 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.4984 of 2024

- 1.K.Periyasamy
 - 2.P.Sivachalam
 - 3.Sumathi
 - 4.Minor S.Harini
Represented by her next friend, guardian,
Father Sivachalam
 - 5.Minor S.Uthanthika
Represented by her next friend, guardian,
Father Sivachalam
- .. Petitioners

Versus

- 1.Sivalingam
 - 2.Gopal
 - 3.S.Vivek
 - 4.G.Asvinth
- .. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to direct the learned District Munsif, Perundurai to number the unnumbered O.S.(CFR No.2768) of 2024 and dispose of the same within stipulated time.

For Petitioners : Mr.Lakshmipathy for
Mr.C.Ramaraj



C.R.P.No.4984 of 2024

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ORDER

This civil revision petition seeks for a direction to the learned District Munsif, Perundurai to number the suit in OS. CFR2768 of 2024.

2. OS. CFR 2768 of 2024 is a suit for bare injunction restraining the defendants from interfering with the peaceful possession and enjoyment of the plaintiffs in the suit schedule mentioned property.

3. The case of the plaintiffs is that the second plaintiff is a yarn broker. He used to introduce the owners of several knitting mills in Tiuppur to the defendants. On account of the dispute between the mill owners and the defendants, a complaint was lodged against the second plaintiff. This complaint was not taken on file. It was closed after enquiry by the Police. Thereafter, the defendants attempted to interfere with the possession of, not only the second plaintiff, but also plaintiffs 1, 3, 4, and 5 over the suit schedule mentioned property. Fearing that that defendants might forcibly dispossess them from the property, they presented the suit for injunction.



C.R.P.No.4984 of 2024

WEB COPY

4. The plaint was returned on four grounds. The fourth ground being that the cause of action is based on a criminal proceeding and therefore, the suit is not maintainable. Hence, this revision.

5. Mr.Lakshmipathy pleads that the plaintiffs have presented the suit on the basis of their title and lawful possession of the property. The criminal dispute is between the second plaintiff and the defendants and that, it also came to be closed by the Police. Hence, he seeks for a direction to number the suit.

6. I do not find any error in ground Nos.1 to 3 of return. Insofar the fourth ground is concerned, I am not in agreement with the learned District Munsif that the cause of action is based on the criminal proceedings. The cause of action is set forth in paragraph 12 of the plaint. It states on 01.09.2024, the defendants attempted to trespass into the suit property and since the defendants are powerful men, the plaintiffs had presented the suit.

7. The dispute between the second plaintiff and the defendants relating to the supply of yarn has nothing to do with the possession of the



C.R.P.No.4984 of 2024

WEB COPY

plaintiffs over the suit property. A person in possession is entitled to seek the assistance of the court to protest his possession. Therefore, the return No.4 made by the learned District Munsif, Perundurai on 01.10.2024 is set aside.

8. The plaintiffs shall comply with the other requirements that have been sought for by the learned District Munsif, Perundurai. The court shall not hold that the civil court has no power to deal with the suits which want to prevent the defendants from interfering with the peaceful possession. This civil revision petition is ordered. No costs.

13.12.2024

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Note: Registry shall return the original papers impugned to the learned counsel for the petitioners after getting appropriate signature and copy of the same.

Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no



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C.R.P.No.4984 of 2024

To

The District Munsif, Perundurai



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C.R.P.No.4984 of 2024

V.LAKSHMINARAYANAN, J.

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C.R.P.No.4984 of 2024

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