



C.R.P.(MD)No.504 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.504 of 2024

and

C.M.P(MD)No.2531 of 2024

C.Murugan

: Petitioner/Petitioner/
Appellant

Vs.

1.Patchiamal @ Paulraj Nadar

2.The District Registrar,
Radhapuram Registrar Office,
Radhapuram Taluk.

3.The State of Tamil Nadu
rep.by the District Collector,
Kokkirakulam,
Tirunelveli – 627 009.

: Respondents/Respondents/
Defendants

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A.No.4 of 2023 in A.S.No.80 of 2019, dated 06.10.2023 on the file of the Sub Court, Valliyoor.



C.R.P.(MD)No.504 of 2024

WEB COPY

For Petitioner : Mr.T.Selvan

For Respondents : Mr.J.Ashok,
Additional Government Pleader,
for R2 and R3.

ORDER

The Civil Revision Petition is directed against the order passed in I.A.No.4 of 2023 in A.S.No.80 of 2019, dated 06.10.2023 on the file of the Sub Court, Valliyoor, dismissing the petition filed under Order 26 Rule 9 of the Code of Civil procedure.

2. The revision petitioner as plaintiff has filed the above suit to declare that the property is belonging to him and for permanent injunction restraining the defendant and his men from interfering with the peaceful possession and enjoyment of the suit property and also restraining the second defendant from registering the document executed by the first defendant or his agent.

3. It is not in dispute that the suit, after full trial, was ordered to be dismissed vide judgment and decree dated 19.10.2019. Challenging the



C.R.P.(MD)No.504 of 2024

judgment and decree, the revision petitioner has preferred an appeal in A.S.No.80 of 2019 and the same is pending on the file of the Sub Court, Valliyoor.

4. Pending appeal, the revision petitioner has filed the above application seeking appointment of Advocate Commissioner to measure the property with a qualified surveyor and to file report.

5. It is not in dispute that the revision petitioner has filed the commission petition before the trial Court and the same was allowed and the contesting first defendant has preferred the revision before this Court and this Court has allowed the revision and thereby dismissed the commission petition. Now in the appeal, the revision petitioner has been attempting to achieve, what he had attempted and failed before the trial Court.

6. Moreover, he has filed the above suit for declaration and for permanent injunction restraining the respondent from interfering with his peaceful possession and as such, the present attempt for appointment of an



C.R.P.(MD)No.504 of 2024

WEB COPY

Advocate Commissioner to measure the suit property and note down the physical features is clearly abuse of process of law and the above petition came to be filed only to protract the proceedings. Hence, this Court concludes that the impugned order dismissing the petition cannot be found fault with. Consequently, this Court concludes that the Civil Revision is devoid of merits and the same is liable to be dismissed.

7. In the result, the Civil Revision Petition is dismissed. Since the appeal is pending from 2019, the learned trial Judge is directed to complete the trial and dispose of the suit within a period of two months from the date of receipt of copy of this order. Consequently connected Miscellaneous Petition is closed. No costs.

26.02.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
das



WEB COPY



C.R.P.(MD)No.504 of 2024

To

- 1.The Sub Judge, Valliyoor.
- 2.The District Registrar,
Radhapuram Registrar Office,
Radhapuram Taluk.
- 3.The District Collector,
Kokkirakulam,
Tirunelveli – 627 009.
- 4.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P.(MD)No.504 of 2024

K.MURALI SHANKAR,J.

das

Order made in
C.R.P.(MD)No.504 of 2024
and
C.M.P(MD)No.2531 of 2024

Dated : 26.02.2024