



C.R.P.(MD)No.692 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.692 of 2024
and C.M.P(MD).No.3522 of 2024

1.V.Senthilnathan

2.S.Jayasutha

... Petitioners/Respondents 1 & 2/

Defendants 1 & 2

Vs.

1.P.Manohari

... 1st Respondent/Petitioner/
Plaintiff.

2.The Assistant Engineer,
Public Works Department,
Oddanchatram.

3.The District Forest Officer,
Dindigul.

4.The District Collector,
Dindigul.

... 2 to 4 Respondents/3 to 5
Respondents/3 to 5 Defendants

PRAYER : Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order dated 06.01.2024 made in I.A.No.501 of 2021 in O.S.No.104 of 2021 on the file of the District Munsif Court, Oddanchatram.



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For Petitioner : Mr.S.R.Sureshkumar

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ORDER

This revision petition is preferred against the order dated 06.01.2024 made in I.A.No.501 of 2021 in O.S.No.104 of 2021 on the file of the District Munsif Court, Oddanchatram.

2.The facts in brief:

Suit in O.S.No.104 of 2021 is filed by the plaintiff seeking the relief of right of easement over the marked portion annexed along with the plaint and for consequential injunction. The defendants entered appearance. During the pendency of the further process a petition was taken out by the plaintiff in I.A.No.501 of 2021 seeking appointment of Commissioner along with Surveyor, that came to be allowed by the trial Court. Against which, this revision is preferred.

3.In that petition the respondent averred that he has annexed a rough sketch along with the plaint. He and the defendants are having adjoining lands. For reaching his land situated in S.No.7991 there is 12 feet breath north-south pathway. It is also pathway for reaching the land



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situated in S.Nos.801, 800, 804, which belongs to the defendants 1 and 2.

Further, it is averred that that the pathway continues on the eastern portion and S.No.801 reaching fourth defendant's forest land. Through that pathway only, he can reached the other portion and S.Nos.802, 803 and 813. The above said pathway is in existence for more than 80 years. Now, the defendants are trying to disfigure the pathway by using heavy machineries. Unless the Commissioner is appointed, the existence of pathway will not be brought on record.

4.The trial Court after hearing the parties, allowed the petition as noted above.

5.Heard the petitioner.

6.The fair order copy is not available in the typed set of papers. Only docket order is available. This Court failed to understand the grievance of the petitioner without going through the detailed order passed by the trial Court. Even otherwise as stated in the preamble portion of the order, it is the case of the respondent that there exists a



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pathway to reach out his land, which passes through various survey numbers noted in the rough sketch filed along with the plaint. When the existence of the pathway is disputed by the revision petitioner, unless a Commissioner is appointed, the truth will not come on record.

7.The learned counsel for the revision petitioner would submit that absolutely no document was produced before the trial Court to show that there exists a car tract. Without any basic document, plaint has been presented. On the basis of the plaint and petition averments, Commissioner was appointed. Apart from that he would also say that there is a delay in filing the petition.

8.Now, whatever it may be absolutely no prejudice will cause to the revision petitioner in appointment of Commissioner. When the pathway is under dispute, whether it exists on the ground or not, the extent of the pathway and the passage through which it passes, are all matters for consideration by the trial Court. If the Commissioner note down the physical features by taking out the measurement on ground, unnecessary oral evidence can be avoided. Not only that, it will be



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helpful to the trial Court to come to a just conclusion. At least for helping the Court to find out the truth, I am of the considered view that the appointment of Commissioner is required and rightly ordered by the trial Court. So it requires no interference.

9. Accordingly, this civil revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
TM

To

1. The District Munsif, Oddanchatram.
2. The Section Officer,
E.R. Section/V.R. Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN,J.

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