



CRP(MD).No.941 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 24.07.2024

CORAM

**THE HONOURABLE MR JUSTICE D.BHARATHA
CHAKRAVARTHY**

**C.R.P(MD)No.941 of 2022
and C.M.P(MD).No.3732 of 2022**

1.K.Balasubramanian
2.K.Samboornam

... Petitioners

-Vs-

1.T.Muruganandam
2.Ramnagar North Welfare Association
rep., by its President
K.N.Balusamy
3.Ramesh
4.Subramaniya Raja

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order and decretal order made in I.A.No.3 of 2021 in O.S.No.173 of 2021 dated 07.10.2021 pending on the file of the Principal District Munsif Court, Karur.

For Petitioners : Mr.R.Murali
For Respondents : Mr.E.K.Kumaresan



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ORDER

The civil revision petition is filed against the order dated 07.10.2021 made in I.A.No.3 of 2021 in O.S.No.173 of 2021.

2. The plaintiffs are the owners of the Plot Nos.2A and 3A in the layout. As per the boundaries, the plaintiffs' plots are also bounded on the south by Chettipalayam 40ft road. Therefore, the plaintiffs sought to make an opening to facilitate ingress and egress through the said road. Since some of the other plots' owners being the association and two others, objected to it stating that the entire community is a gated community and the plaintiffs should not have the opening. Hence, the suit is filed.

3. In the said suit, now the respondent/ T.Muruganantham had filed an impleading application, which is allowed. The contention of the said Muruganantham is that he is also a plot owner and as such, is interested in defending the suit.

4. The plaintiffs being the *dominus litis*, have arrayed the parteis, who are interfering with their rights and laid the suit. T.Muruganantham



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being a third party would not be bound by the said judgment and therefore, there is no question of impleading him as a defendant in the suit. Even factually, his Plot No.95 is situate totally different from the plaintiffs' plot and therefore, factually also, he need not be an aggrieved party. The only contention raised is that the entire community is a gated community. The Plaintiffs are not breaking any common wall or neither letting in any new persons through the opening and are neither creating a new pathway. When their plot is bounded by a 40ft road, the respondents cannot feel aggrieved by the plaintiffs keeping their entrance to the plot via the said road.

5. In view thereof, I am of the view that the order passed by the trial Court is unsustainable. Therefore, the order passed by the trial Court in I.A.No.3 of 2021 in O.S.No.173 of 2021 dated 07.10.2021 is hereby set aside and accordingly, this Civil Revision Petition stands allowed. No cost. Consequently, connected Miscellaneous Petition is closed.

24.07.2024

Index : Yes / No
Internet : Yes/ No
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D.BHARATHA CHAKRAVARTHY, J.

Rmk

To
The Principal District Munsif, Karur.

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