



C.R.P. (MD) No.1041 of 2024

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 22.04.2024**

**C O R A M**

**THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU**

C.R.P. (MD) No. 1041 of 2024

and

C.M.P. (MD) No. 5757 of 2024

Rajkumar

... Petitioner

Vs.

1.Ganesan Perumal

2.Karutha Puthiyavan Jeyakumar

3.Soundhira Rajan

... Respondents

**PRAYER:** Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 14.03.2024 passed in I.A. No. 96 of 2024 in O.S. No. 20 of 2013 on the file of the District Munsif Court, Sathankulam, Thoothukudi District and allow the present Civil Revision Petition.

For Petitioner

: Mr. S.Muthu Malai Raja

**ORDER**

This Civil Revision Petition invoking Article 227 of the Constitution of India, 1950, has been filed challenging the order dated 14.03.2024 in I.A. No. 96 of 2024 in O.S. No. 20 of 2013 (hereinafter referred to as 'impugned



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order' for short) passed by the District Munsif Court, Sathankulam (hereinafter referred to the 'Trial Court' for short).

2. The parties are hereinafter referred to as by the description in the suit in O.S. No. 20 of 2013 before the District Munsif Court, Sathankulam (hereinafter referred to as the 'Trial Court' for short) for the sake of clarity and convenience.

3. The suit in O.S. No.20 of 2013 had been filed by the Plaintiff, *viz.*, Ganesan Perumal and Karutha Puthiyavan Jeyakumar, against the Defendant, *viz.*, Soundhira Rajan, seeking declaration of ownership and consequential injunction for protection of possession of their property. After that the suit was dismissed for default on 11.09.2017, it was restored to file by order passed in I.A. No.651 of 2023, and the Plaintiffs had made the application in I.A. No. 449 of 2022 to appoint an Advocate Commissioner to inspect the property and file a report regarding its physical features.

4. The Petitioner, who then came to know about that suit, had filed the application in I.A. No. 96 of 2024 to implead him as another Defendant



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projecting that the Kanniyal Temple and a Banyan Tree exists in the property, which is worshipped by his ancestors and that it is necessary for him to participate in those proceedings. The Trial Court by the impugned order rejected the said application holding that the Petitioner has not produced any material to substantiate his claim in respect of the property and as such, he was not a necessary party to the suit.

5. As rightly pointed out by the Trial Court, the Petitioner has not placed any substantiating material to accept his claim in respect of the property to be added as a necessary party to the suit. The mere production of the photographs of the existence of a Banyan tree cannot by itself prove any right of the Petitioner or his ancestors in respect of that property. If the Petitioner really has any claim to the property, he would have to work out his rights in independent proceedings in accordance with law and the Plaintiffs, as *dominus litus*, cannot be compelled to litigate against them.

6. At this juncture, it would be relevant to extract the principles on the exercise of the jurisdiction of the High Court under Article 227 of the Constitution as formulated by the Hon'ble Supreme Court in the decision in



***Shalini Shyam Shetty -vs- Rajendra Shankar Patil*** [(2010) 8 SCC 329],

which reads as follows:-

- (a) A petition under Article 226 of the Constitution is different from a petition under Article 227. The mode of exercise of power by the High Court under these two articles is also different.
- (b) In any event, a petition under Article 227 cannot be called a writ petition. The history of the conferment of writ jurisdiction on High Courts is substantially different from the history of conferment of the power of superintendence on the High Courts under Article 227 and have been discussed above.
- (c) High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of the court or tribunal subordinate to it. In cases where an alternative statutory mode of redressal has been provided, that would also operate as a restraint on the exercise of this power by the High Court.



- (d) The parameters of interference by High Courts in exercise of their power of superintendence have been repeatedly laid down by this Court. In this regard the High Court must be guided by the principles laid down by the Constitution Bench of this Court in ***Waryam Singh -vs- Amarnath*** (AIR 1954 SC 215) and the principles in ***Waryam Singh -vs- Amarnath*** (AIR 1954 SC 215) have been repeatedly followed by subsequent Constitution Benches and various other decisions of this Court.
- (e) According to the ratio in ***Waryam Singh -vs- Amarnath*** (AIR 1954 SC 215), followed in subsequent cases, the High Court in exercise of its jurisdiction of superintendence can interfere in order only to keep the tribunals and courts subordinate to it, “within the bounds of their authority”.
- (f) In order to ensure that law is followed by such tribunals and courts by exercising jurisdiction which is vested in them and by not declining to exercise the jurisdiction which is vested in them.



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- (g) Apart from the situations pointed in (e) and (f), High Court can interfere in exercise of its power of superintendence when there has been a patent perversity in the orders of the tribunals and courts subordinate to it or where there has been a gross and manifest failure of justice or the basic principles of natural justice have been flouted.
- (h) In exercise of its power of superintendence High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or courts subordinate to it, is a possible view. In other words, the jurisdiction has to be very sparingly exercised.
- (i) The High Court's power of superintendence under Article 227 cannot be curtailed by any statute. It has been declared a part of the basic structure of the Constitution by the Constitution Bench of this Court in ***L. Chandra Kumar -vs- Union of India*** [(1997) 3 SCC 261] and therefore abridgment by a constitutional amendment is also very doubtful.



- (j) It may be true that a statutory amendment of a rather cognate provision, like Section 115 of the Civil Procedure Code by the Civil Procedure Code (Amendment) Act, 1999 does not and cannot cut down the ambit of High Court's power under Article 227. At the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227.
- (k) The power is discretionary and has to be exercised on equitable principle. In an appropriate case, the power can be exercised *suo motu*.
- (l) On a proper appreciation of the wide and unfettered power of the High Court under Article 227, it transpires that the main object of this article is to keep strict administrative and judicial control by the High Court on the administration of justice within its territory.
- (m) The object of superintendence, both administrative and judicial, is to maintain efficiency, smooth and orderly



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functioning of the entire machinery of justice in such a way as it does not bring it into any disrepute. The power of interference under this article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court.

Having regard to the aforesaid legal position, there does not appear to be any infirmity in the impugned order warranting interference by this Court in the exercise of supervisory jurisdiction under Article 227 of the Constitution.

In the result, this Civil Revision Petition, which does not deserve to be entertained, is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

**22.04.2024**

Index : Yes/No

NCC : Yes/No

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WEB COPY TO:

- 1.The District Munsif Court, Sathankulam, Thoothukudi District.
- 2.The Section Officer (VR Section),  
Madurai Bench of Madras High Court,  
Madurai.



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**P.D.AUDIKESAVALU, J.**

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