



C.R.P.(MD)No.1241 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 20.09.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.1241 of 2024

and

C.M.P.(MD)No.7143 of 2024

Samuvel Durai

... Petitioner/Respondent/
Proposed 2nd Respondent

Vs.

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.Assistant Divisional Engineer,
High Ways Tamil Nadu State
(Construction and Maintenance),
Office at Kurukkusalai,
Ottapidaram, Thoothukudi District.

3.The Tashildar,
Ottapidaram,
Thoothukudi District.

... Respondents 1 to 3/Respondents 1 to 3
/Appellants

4.T.Jayakumari

... 4th Respondent/4th Respondent/
Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to allow this Civil Revision Petition by setting aside the order and decree



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dated 22.03.2024 made in I.A.No.2 of 2021 in A.S.No.16 of 2020 on the file of

Sub Court, Thoothukudi.

For Petitioner : Mr.M.Thirunavukkarasu

For Respondents : Mr.R.Ragavendran,
Government Advocate for R1 to R3.
No appearance for R4.

* * *

ORDER

Heard the learned counsel for the revision petitioner and the learned Government Advocate for the respondents 1 to 3. The fourth respondent is supposed to be the contesting respondent. She has been served and her name is printed in the cause list but she has not chosen to enter appearance.

2.The fourth respondent herein filed O.S.No.411 of 2015 on the file of the Principal District Munsif Court, Thoothukudi for declaration and permanent injunction. The district administration, the highways department, the Tahsildar and the local body were alone shown as the defendants. The suit was decreed on 23.06.2020. Questioning the same, the Government filed A.S.No.16 of 2020 before the Sub Court, Thoothukudi. In the said appeal, the revision petitioner herein filed I.A.No.2 of 2021 for impleading himself as the second respondent



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in the main appeal. The I.A. was dismissed vide order dated 22.03.2024.

Challenging the same, this civil revision petition came to be filed.

3.The learned counsel for the revision petitioner drew my attention to the relevant entry in the “A” register of Puthiyamputhur Village. is seen therefrom that S.No.25/11 has been classified as government poramboke with the description “road side”.

4.As rightly pointed out by the Court below, the petitioner could have very well impleaded himself in the suit. But the failure on his part need not be put against him. I am more than satisfied that public interest is involved. It is well settled that a road has to be always maintained as road and encroachments cannot be permitted. Here is the case where the plaintiff seeks to assert her rights over what has been classified as road side. It appears that the petitioner is the owner of a property in the vicinity. Of course, the petitioner has come forward to protect his personal rights. But then, in the process, if public interest will be sub-served, the Court should not drive him away. The petitioner cannot be called as an utter stranger. He is very much having stake in the matter. It is unfortunate that the defendants in the suit failed to mark the “A” register's entry. Considering the fact that the suit property on the face of it appears to be



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a road portion, the impugned order is set aside. The petitioner stands impleaded as second respondent in A.S.No.16 of 2020 on the file of Sub Court, Thoothukudi. The petitioner is also at liberty to adduce additional evidence before the first appellate Court.

5.This civil revision petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

20.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

- 1.The Sub Court,
Thoothukudi.
- 2.The District Collector,
Thoothukudi District,
Thoothukudi.
- 3.Assistant Divisional Engineer,
High Ways Tamil Nadu State
(Construction and Maintenance),
Office at Kurukkusalai,
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G.R.SWAMINATHAN, J.

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