



C.R.P.(MD)No.1269 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 09.08.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.1269 of 2024

and

C.M.P.(MD)No.7302 of 2024

1.Rajendran

2.Chelladurai

...Petitioners/Respondents/Defendants

Vs.

Ayyappan

... Respondent/Petitioner/Plaintiff

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair order and decretal order made in I.A.No.5 of 2024 in O.S.No.13 of 2021 dated 14.03.2024 on the file of the learned District Munsif Cum Judicial Magistrate, Gandaravakottai.

For Petitioners : Mr.N.Kamesh

For Respondent : Mr.M.S.Senthil Kumar

* * *

ORDER

Heard both sides.



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2.The defendants in O.S.No.13 of 2021 on the file of the District Munsif Cum Judicial Magistrate, Gandarvakottai are the revision petitioners herein. The suit was filed for permanent injunction. The plaintiff's side was closed. On the side of the defendants, as many as four witnesses were examined. Thereafter, the plaintiff filed I.A.No.5 of 2024 for re-opening his side and for examining further witnesses. The I.A. was allowed on 14.03.2024. Challenging the same, the present civil revision petition came to be filed.

3.The learned counsel for the revision petitioners is right in his contention that the plaintiff has not given any reason for re-opening his side and for examining further witnesses. The learned trial Munsif has also merely stated that by giving one more opportunity to the plaintiff, the defendants will not be put to any prejudice.

4.I am mindful of the fact that as many as four witnesses have been examined on the side of the defendants and that the defendants' side has also been closed. The learned counsel for the revision petitioners took me through the deposition of D.W.3. D.W.3 had stated that he had not brought the survey report. He added that the survey report will be in the office of the jurisdictional



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Tahsildar. He gratuitously added that only if the Tahsildar gives testimony regarding the report, truth will be out.

5.The learned counsel for the revision petitioners points out that the survey was done in the year 2020 at the instance of the plaintiff. Nothing stopped the plaintiff from examining the Tahsildar as his witness. Be that at it may, I am satisfied that marking the survey report is necessary for the purpose of this case. It is not necessary to examine the Tahsildar for this purpose or to re-open the plaintiff's side. A simple solution can be found out. The Court below shall *suo motu* re-open the defendants' side and recall D.W.4 alone only for the purpose of marking the survey report referred to in the deposition of D.W.3. After the survey report is marked through D.W.4, it is open to the plaintiff to cross examine the said witness.

6.The impugned order is set aside and the civil revision petition is disposed of in the above lines. No costs. Consequently, connected miscellaneous petition is closed.

09.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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G.R.SWAMINATHAN, J.

ias

To:

The District Munsif Cum Judicial Magistrate,
Gandaravakottai.

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