



C.R.P.(PD)(MD)No.799 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 14.03.2024

CORAM

THE HON'BLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

C.R.P.(PD)(MD)No.799 of 2020
and C.M.P.(MD)No.5416 of 2020

Poomani

... Petitioner

Vs.

1.The Junior Engineer,
Public Work Department,
Vaigai Manjalaru Vadigal Kottam,
G.H. Road, Theni.

2.The Executive Engineer,
Public Work Department,
Vaigai Manjalaru Vadigal Kottam,
Opposite to Court, Periyakulam,
Theni.

3.The District Collector,
Theni District,
Theni.

4. Mookkan

... Respondents



C.R.P.(PD)(MD)No.799 of 2020

PRAYER: Petition filed under Article 227 of Constitution of India praying to set aside the fair and decreetal order dated 03.04.2019 in C.M.A.No. 4 of 2015 in I.A. No. 107 of 2013 in O.S. No.24 of 2013 on the file of the Subordinate Court, Theni.

For Petitioner : Mr.K.Govindarajan
For Respondents : Mr.D.Sasikumar,
Addl. Govt. Pleader for R1 to R3
Mr.M.Kaliraj for R4

ORDER

This Civil Revision Petition is directed against an order dated 03.04.2019 passed in C.M.A.No.4 of 2015 passed by the learned Subordinate Court, Theni.

2. Originally, the petitioner herein filed O.S.No.24 of 2013 against the respondents 1 to 3 on the file of the District Munsif and Judicial Magistrate Court, Andipatti, seeking permanent injunction in respect of a suit schedule property situated in survey No.160 of Mayiladumparai Village. In the said suit, the respondent No.4 has filed an application in I.A.No.107 of 2013



under Order 1 Rule 10 of C.P.C. to implead him as defendant No.4 in the main suit on the ground that the suit schedule property belongs to Government and the same is being used as a pathway by the respondent No. 4 herein and other villagers, but the same was encroached into by the petitioner/ plaintiff by putting a fence around the same. Aggrieved by the said encroachment made by the petitioner, the respondent No.4 herein claims to have made a complaint before the Government authorities and on taking action on the said complaint, the respondents authorities have come to the conclusion that the petitioner has encroached into the Government land in S.No.160 and accordingly, a report was prepared by the Surveyor. According to respondent No.4, at this stage, the petitioner herein has filed the present suit in O.S.No.24 of 2013, seeking permanent injunction against the respondent Nos.1 to 3 alone. Having come to know about the same, respondent No.4 filed an application to implead himself under Order 1 Rule 10 of C.P.C. The said application was allowed by the learned trial Court by order dated 21.02.2014.

3. Aggrieved by the same, the petitioner herein filed C.M.A.No.24 of 2013 on the file of the Court of Subordinate Court, Theni. The same was



dismissed by an order dated 03.04.2019. Both the Courts below have taken note of the contention of respondent N.4 that it is at his instance the respondents 1 to 3 have initiated action against the petitioner herein and therefore, respondent No.4 is a proper and necessary party and accordingly permitted him to come on record. It is aggrieved by the said order, the petitioner is before this Court.

4. It is the contention of the learned counsel for the petitioner that the petitioner is aggrieved by the action of the respondents 1 to 3 in interfering with the possession and enjoyment of the petitioner over the suit property of which, she has been in possession of the past 50 years and she is not seeking any relief against the respondent No.4 herein and therefore, the Courts below are not justified in allowing the respondent No.4 to come on record in a suit filed for bare injunction against the respondents 1 to 3. it is also further contended that if the said respondent No.4 got any claim, it is for him to initiate appropriate proceedings, but not by way of impleading himself in the suit filed by the petitioner herein.



WEB COPY

5. This Court has carefully considered the entire materials on record as well as the submissions made by the learned counsel for the petitioner.

6. Both the Courts below have believed the version of the respondent No.4 herein that it is at his instance the respondents 1 to 3 have initiated action against the petitioner which instigated the petitioner to file the suit in O.S.No.24 of 2013. If that be the case, the petitioner cannot be said to be a stranger to the property in question and in case, if any adverse order is passed against defendants 1 to 3 herein, the petitioner also will be directly affected and all the efforts put in by her for removal of the alleged encroachment into the Government land would get frustrated. It is not in dispute that the said property which is situated in S.No.160 is a Government property, but the petitioner herein claims to be in possession of the same for the past 50 years.

7. In view of the fact that admittedly the said land belongs to the Government, this Court is of the considered view that there is no error or illegality in the discretion exercised by the Courts below by permitting



C.R.P.(PD)(MD)No.799 of 2020

respondent No.4 herein to come on record and this Court does not find any merit in this Civil Revision Petition. Accordingly, the same is dismissed.

8. Taking into consideration the fact that the suit is of the year 2013 and the same was got stayed by the petitioner /plaintiff herself for past four years, this Court is of the considered view that it is a fit case, where the learned trial Court shall put all its efforts to dispose of the suit as expeditiously as possible and accordingly, the learned trial Court viz., District Munsif and Judicial Magistrate Court, Andipatti is directed to dispose of the suit in O.S.No.24 of 2013, as expeditiously as possible, at any rate on or before 31.07.2024. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

14.03.2024

NCC : Yes/No

Index : Yes/No

vsm



WEB COPY



C.R.P.(PD)(MD)No.799 of 2020

To

- 1.The Subordinate Court, Theni.
- 2.The District Munsif and Judicial Magistrate, Andipatti.
- 3.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



C.R.P.(PD)(MD)No.799 of 2020

MUMMINENI SUDHEER KUMAR, J.

vsm

C.R.P.(PD)(MD)No.799 of 2020

14.03.2024