



C.R.P.(MD)No.641 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 01.10.2024

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

C.R.P.(MD)No.641 of 2024

and

C.M.P.(MD)No.3197 of 2024

C.Ramalingam

... Petitioner / 1<sup>st</sup> Respondent / 1<sup>st</sup> Defendant

Vs.

1.B.Mahalakshmi

2.S.Vijayarani

3.G.Dhanapackiam

4.P.Ganesan

... Respondents 1 to 4 / Petitioners / Plaintiffs

5.C.Asaithambi

6.C.Elango

7.Ramanathan

8.Vijaya

9.Thangapandian

10.Ramya

... Respondents 5 -10 / Respondents 2-7/  
Defendants 2-7



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**Prayer:** Civil Revision Petition is filed under Article 227 of the Constitution of India, as against the fair and decreetal order dated 08.11.2022 passed in I.A.No. 297 of 2022 in O.S.No.914 of 2013 on the file of the II Additional Sub Judge, Madurai.

For Petitioner : Mr.M.Saravanan

For Respondents : Mrs.J.R.Annie Abinaya  
for Mr.A.John Vincent

### **ORDER**

The first defendant in O.S.No.914 of 0213 on the file of the second Additional Sub Judge, Madurai is the revision petitioner herein.

2. The suit was originally filed for the relief of declaration and recovery of possession. The suit property is a pathway. The plaintiffs were originally under the impression that the suit pathway belongs to them and some others. Subsequently, they were told that the suit property is a public pathway. They therefore thought that seeking the relief of declaration in their favour will not be appropriate. Hence, they filed I.A.No.43 of 2017 for deleting the original prayer and for substituting the same with the relief of mandatory injunction. The said IA was allowed. Subsequently, the plaintiffs were advised that without prayer for declaration, the relief for injunction simpliciter may not be maintainable. Therefore, they filed present I.A.No.297 of 2022 for the relief of



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declaration and mandatory injunction and recovery of possession. IA was allowed by the court below. Challenging the same, this Civil Revision Petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the memorandum of grounds of revision and called upon this Court to set aside the impugned order and grant relief as prayed for.

4. I am not swayed by the said submission. Admittedly, till date, trial has not commenced. Therefore, the court below cannot be faulted for adopting a liberal approach. Of-course, the plaintiffs appear to be vexing the revision petitioner by filing successive IAs. It is also stated that the suit was already dismissed for non-prosecution twice. Even though I sustain the order impugned in this civil revision petition, I direct the court below to dispose of O.S.No.914 of 2013 on merits and in accordance with law within a period of six months from the next hearing date. The court below shall not permit the plaintiffs to adopt any further dragging on tactics.



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**G.R.SWAMINATHAN, J.**

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5. The Civil Revision Petition is dismissed with the aforesaid direction.

No costs. Consequently, connected miscellaneous petition is closed.

**01.10.2024**

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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**To:**

The II Additional Sub Judge, Madurai.

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01.10.2024