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C.R.P(MD)No.1436 of 2024



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 05.07.2024

CORAM

**THE HONOURABLE MR JUSTICE D.BHARATHA
CHAKRAVARTHY**

C.R.P(MD)No.1436 of 2024

and

C.M.P(MD)No.8513 of 2024

1.A.Sankaran

2.S.Lakshmi

... Petitioners/Petitioners/
Defendants 1&2

Vs.

S.Nainar

...Respondent/Respondent/
Plaintiff

Civil Revision Petition is filed under article 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A.No.4 of 2023 in O.S.No.88 of 2023 dated 02.04.2024 on the file of the District Munsif Court, Nanguneri, Tirunelveli.

For Petitioners

:M.Subbiah

ORDER

The Civil Revision Petition arises out of the order dated 02.04.2024 in IA.No.4 of 2023 in O.S.No.88 of 2023 passed by the District Munsif, Nanguneri, Tirunelveli.



2.In the said interlocutory application, the Petitioner had prayed for rejection of plaint. The case of the petitioner/defendant is that the prayer of the plaintiff in seeking that no electricity connection should be granted in the name of the defendant is not maintainable in view of the relevant provisions of the Act.

3.The trial court considered the said issue, however, rejected the application on the ground that when the suit is filed for declaration of title, even if the consequential relief is not maintainable, still the main suit is for the declaration of title, as between the petitioners/plaintiffs and the respondent/defendant and therefore, dismissed the petition.

4.The learned counsel appearing on behalf of the petitioner would rely upon the judgment of this Court in A.Kaleur Rahman and others-vs-P. Kanan and others,(CRP (PD)No.3500 of 2018) to contend that the Court had on such occasions even resorted to strike of plaint as there can be no injunction restraining the Electricity Board from effecting connections.

5.I have considered the submission made by the learned counsel.



6.As rightly held by the trial Court, when the main relief which is prayed for is in relation to declaration of title and when the plaintiff is claiming title and when the defendant is resisting the same, that lis has to be decided on merits in accordance with law. The electricity connection, if any given in the meanwhile, should go along with the land and ensure that the benefit of the party in whose favour the title is held. Accordingly the Court can mould the consequential relief and decree the suit.

7.In view thereof, the decision of the trial Court in dismissing the application for rejection of plaint, cannot be interfered with.

8.With the above observation, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

05.07.2024

NCC:Yes/No

Ns

To

- 1.The District Munsif Court,
Nanguneri, Tirunelveli.
- 2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,



Madurai.

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D.BHARATHA CHAKRAVARTHY, J.

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and
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