



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 26.09.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.R.P.(MD)No.1805 of 2024

T.Kuppamuthu (Died)

1.P.M.Thirumurugan

2.Uma Maheswari

3.Kaleeswaran

4.Maharanathan (minor)

5.Rutrakanth (Minor)

*(4th and 5th petitioners minors are represented by
their father and guardian 1st petitioner herein)*

...Petitioners

Vs.

1.P.Muthuramalingam

2.The Thashildar,
Office of Thashildar,
Kadaladi Town, Kadaladi Post,
Kadaladi Taluk, Ramanathapuram.

3.The Assistant Director,
District Head Survey Office,
District Collector's office campus,
Sethupathy Nagar, Ramanathapuram Town,
Ramanathapuram Taluk,
Ramanathapuram District.

... Respondents



PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, praying to set aside the order passed by the learned District Munsif cum Judicial Magistrate, Kadaladi in I.A.No.1 of 2023 in O.S.No.81 of 2011 dated 10.04.2024 and allow the interlocutory application as prayed for and allow the Civil Revision Petition.

For Petitioner : Mr.Jerin Mathew
For Respondent No.1 : Mr.K.Kumaravel
For Respondents 2 & 3 : Mr.V.Om Prakash
Government Advocate

ORDER

This Civil Revision Petition is filed by the plaintiff (and his legal heirs) to set aside the order passed by the learned District Munsif cum Judicial Magistrate, Kadaladi in I.A.No.1 of 2023 in O.S.No.81 of 2011 dated 10.04.2024.

2. The plaintiff/T.Kuppamuthu has filed a suit, subsequently died, thereafter his legal heirs were impleading as plaintiffs. The plaintiffs are the revision petitioners and the defendants are the respondents herein. For the sake of convenience, the parties are referred to as plaintiffs and the defendants.



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3. The plaintiff/deceased T.Kuppamuthu had filed suit in O.S.No. 81 of 2011 for declaration and injunction, but left the suit for 'dismissal for default'. Thereafter, the plaintiffs had filed petition to restore the suit along with the petition in I.A.No.1 of 2023 to condone the delay of 2412 days. The defendants have vehemently opposed to entertain this Civil Revision Petition and for reviving the suit.

4. It is seen from the pleadings of both the parties, especially the written statement of the defendants, they have admitted that the plaintiffs' property is on the southern side and the 1st defendant's property is on the northern side. Prima facie the identification of the property is the issue between the parties. Therefore, it ought to be litigated and resolved before the Court. Therefore, this Court is inclined to allow this Civil Revision Petition. Since the delay is huge, the same is allowed on cost.

5. Accordingly, this Civil Revision is allowed. The plaintiffs are directed to pay a sum of Rs.5,000/- to the 1st defendant. On such payment, the Learned District Munsif cum Judicial Magistrate, Kadaladi, is directed to restore the suit in O.S.No.81 of 2011 and complete the suit proceedings and



pass Judgment within a period of One year, from the date of receipt of a copy of the Order. No Costs.

26.09.2024

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

1. The District Munsif cum Judicial Magistrate,
Kadaladi.

2. The Thashildar,
Office of Thashildar,
Kadaladi Town,
Kadaladi Post,
Kadaladi Taluk,
Ramanathapuram.

3. The Assistant Director,
District Head Survey Office,
District Collector's office campus,
Sethupathy Nagar,
Ramanathapuram Town,
Ramanathapuram Taluk,
Ramanathapuram District.

4. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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Order made in
C.R.P(MD)No.1805 of 2024

26.09.2024