



C.R.P.(MD)No.1941 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 26.09.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.1941 of 2024

and

C.M.P.(MD)No.11509 of 2024

1.T.Murugavel

2.T.Raja

3.T.Mani

4.T.Sundar

5.T.Muthukamu

6.K.Marimuthu

... Petitioners / Petitioners / Defendants

Vs.

1.S.Mohammed Maideen

2.S.Raja Mohammed

3.A.Maihar Banu

4.A.Jesbintha Parveen

5.A.Benazeer Bakiya

... Respondents / Respondents / Plaintiffs

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 01-07-2024 passed in I.A.No.9 of 2023 in O.S.No.88 of 2012 by District Munsif Court, (FAC), Periyakulam, thereby allowing the civil revision petition with costs.



C.R.P.(MD)No.1941 of 2024

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For Petitioners : Mr.S.Anand Chanrasekar
For M/s.Sarvabhauman Associates.

For Respondents : Mr.V.George Raja,
For M/s.Ajmal Associates.

* * *

ORDER

Heard both sides.

2.The defendants in O.S.No.88 of 2012 on the file of the District Munsif Court (FAC), Periyakulam are the revision petitioners herein. The suit was filed by the respondent herein for permanent injunction. The petitioners filed I.A.No.9 of 2023 for reopening the suit for the purpose of examining the jurisdictional Village Administrative Officer. The I.A. was dismissed vide order dated 01.07.2024. Questioning the same, this civil revision petition came to be filed.

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



C.R.P.(MD)No.1941 of 2024

WEB COPY

4.Per contra, the learned counsel for the respondents submitted that the impugned order is well reasoned and that it does not warrant interference. He also pointed out that the suit was filed way back in the year 2012 and that the attempt of the petitioners is only to drag on the proceedings. He further pointed out that the I.A. was filed at the stage of arguments. It is his further contention that the petitioners have earlier filed I.As for reopening and recalling and that the present exercise could have been undertaken then itself. He also would point that no purpose will be served in examining the jurisdictional Village Administrative Officer. He called upon this Court to sustain the reasons set out by the Court below and dismiss the civil revision petition.

5.I carefully considered the rival contentions and went through the materials on record. The plaintiffs seek permanent injunction. The case of the defendants / revision petitioners is that the suit property was leased out by the father of the first plaintiff some 40 years ago and that they are in possession of the suit property. In order to prove their possession, the defendants marked Ex.B14 series which are kist receipts. The learned counsel for the revision petitioners states that at the time of marking, no objection was raised. Even during the cross examination, the authenticity of Ex.B14 was not questioned.



C.R.P.(MD)No.1941 of 2024

But at the time of arguments, the learned counsel for the plaintiffs had challenged the genuineness of Ex.B14 series. It is this that had impelled the defendants to file I.A.No.9 of 2023 for reopening the suit.

6.The learned counsel for the petitioners would further add that the defendants do not intend to prolong the matter and that this Court can very well issue any direction for time bound disposal of the suit itself.

7.I am of the view that since the genuineness of Ex.B14 has been questioned by the plaintiffs and since this point was not earlier taken, the revision petitioners deserve to be given an opportunity.

8.If the petitioners are not allowed to examine the jurisdictional Village Administrative Officer to testify as to whether the kist receipts were issued by the Village Administrative Officer and whether they pertain to the suit property, the petitioners' defence will be seriously prejudiced and dented.

9.In this view of the matter, the impugned order is set aside. Now that the suit is re-opened, the petitioners shall file an application for examining the Village Administrative Officer on the very next hearing date itself. Summon



C.R.P.(MD)No.1941 of 2024

will be issued and the Village Administrative Officer will be examined and cross examined on the date when he appears to tender evidence. The suit itself will be disposed of on merits and in accordance with law on or before 24.12.2024.

10.The civil revision petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

26.09.2024

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

The District Munsif Court, (FAC),
Periyakulam.



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C.R.P.(MD)No.1941 of 2024

G.R.SWAMINATHAN, J.

ias

C.R.P.(MD)No.1941 of 2024

26.09.2024