



C.R.P.(MD)No.1986 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 21.10.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.1986 of 2024

and

C.M.P.(MD)No.11258 of 2024

1.R.Thirunavukarasu

2.T.Vinoth Kumar

3.T.Manimegalai

... Petitioners / Petitioners / Defendants

Vs.

1.A.Duraipandi

2.P.Periyakaruppan

3.S.Palani

... Respondents / Respondents / Plaintiffs

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 30.04.2024 made in I.A.No.4 of 2023 in O.S.No.183 of 2022 on the file of the District Munsif Court, Melur and all the civil revision petition.

For Petitioners : Mr.S.Arunnithy

For Respondents : Mr.K.Mahendran

* * *



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ORDER

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Heard both sides.

2.The petitioners are figuring as the defendants in O.S.No.183 of 2022 on the file of the District Munsif Court, Melur. The said suit is for permanent injunction. The defendants filed I.A.No.4 of 2023 for rejection of plaint. The I.A. was dismissed vide order dated 30.04.2024. Challenging 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. He submitted that the suit property is a government property and that therefore, the suit is not maintainable. He also would add that in order to perpetuate their encroachment, the suit has been instituted. He relied on the decision reported in *(1977) 4 SCC 467 (T.Arivandandam v. T.V.Satyapal)* in support of his contention that a vexatious suit is to be nipped in the bud. He called upon this Court to set aside the impugned order and grant relief as prayed for.

4.I am not swayed by the submissions of the learned counsel for the revision petitioners. The learned counsel for the plaintiffs draws my attention



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to the recent decision of the Hon'ble Supreme Court reported in **2023 INSC**

1043 (Eldeco Housing and Industries Limited Vs. Ashok Vidyarthi). The

Hon'ble Supreme Court held that no amount of evidence of merits of the controversy can be examined at the stage of decision of the application under Order VII Rule 11 of Civil Procedure Code.

5.A careful reading of the plaint averments indicates that cause of action has been disclosed. The plaintiff may or may not have a case on merits. But it should be found out only at the end of trial. The circumstances for rejection of plaint are absent in this case. The Court below had examined all the contentions advanced by the learned counsel for the petitioners at length and thereafter proceeded to reject the application. Interference in exercise of jurisdiction under Article 227 of the Constitution of India is not warranted and the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

21.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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G.R.SWAMINATHAN, J.

ias

To:

The District Munsif Court,
Melur.

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