



C.R.P(MD)No.1694 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 09.02.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.1694 of 2019

and

C.M.P(MD)No.8736 of 2019

1.Nagalingam

2.Arivalagan

3.Samykannu : Petitioners/Petitioners/Proposed Defendants

Vs.

1.Sivakumar : Respondent/1st Respondent/Plaintiff

2.Jeyaraj : 2nd Respondent/2nd Respondent/1st Defendant

3.The Tahsildar,
Orathanadu Taluk Office,
Orathanadu Taluk,
Thanjavur District.

4.The Taluk Surveyor,
Orathanadu Taluk Office,
Orathanadu Taluk,
Thanjavur District.

5.The District Collector,
Thanjavur District. : Respondents 3 to 5/ Respondents 3 to 5
Defendants 2 to 4



C.R.P(MD)No.1694 of 2019

WEB COPY

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order passed in I.A.No.160 of 2018 in O.S.No.42 of 2012 on the file of the learned District Munsif cum Judicial Magistrate, Orathanadu, Thanjavur District, dated 03.07.2019.

For Petitioner : Mr.V.Sasikumar

For Respondents : Mr.J.Ashok,
Additional Government Pleader, for R3 to R5.

: Mr.S.Ramachandran,
for Mr.K.Kumaravel, for R2.

: No Appearance, for R1.

ORDER

The Civil Revision Petition is directed against the order passed in I.A.No.160 of 2018 in O.S.No.42 of 2012, dated 03.07.2019 on the file of the learned District Munsif cum Judicial Magistrate, Orathanadu, Thanjavur District, dismissing the petition filed under Order I Rule 10(2) of the Code of Civil Procedure.

2. The first respondent as plaintiff has filed the suit claiming permanent injunction restraining the first defendant and his men from



C.R.P(MD)No.1694 of 2019

interfering with the plaintiff using the suit property as pathway and restraining from proceeding with the survey of lands in S.No.84/1 D3 of Pudur Village, Orathanadu Taluk.

3. The first respondent/plaintiff has filed the suit against the second respondent/first defendant and against the Government authorities respondents 3 to 5/defendants 2 to 4. The second respondent/first defendant and the second defendant/Tahsildar, Orathanadu have filed written statement and are contesting the suit.

4. Pending suit, the revision petitioners, who are the third parties to the above proceedings, have filed a petition under Order I Rule 10(2) of C.P.C., seeking orders to implead them as party defendants in the suit.

5. Admittedly, the revision petitioners are related to each other and by alleging that the pathway referred in the suit is belonging to the plaintiff; the first defendant and other Pangalis including the proposed parties and they have been using the pathway situated in S.No.84/1D3 to reach the Veerappan Temple for several years; that the plaintiff having



C.R.P(MD)No.1694 of 2019

enmity with the first defendant has filed the suit allegedly claiming exclusive right over the pathway; that the proposed parties are necessary parties; that the plaintiff ought to have claimed the declaratory relief by impleading the proposed parties; that the proposed parties suspect that the plaintiff and the first defendant have amicably settled their disputes and are acting against the interest of the proposed parties and that therefore, they were constrained to file the above application to get themselves implead.

6. The second respondent/first defendant has filed a counter statement raising objections and further stated that the above petition has been filed only to drag on the proceedings; that the proposed parties have not approached the Court with clean hands; that the proposed parties have no right or possession over the first defendant's property at any point of time; that neither the plaintiff nor the proposed parties have used the respondent's property as pathway to reach the Veerappan temple; that the present suit is based upon a specific cause of action as against the second respondent; that the plaintiff has not pleaded anything about the rights of the proposed parties; that there is no cause of action against the revision petitioners and that therefore, the above petition is liable to be dismissed.



C.R.P(MD)No.1694 of 2019

WEB COPY

7. As already pointed out, the plaintiff has filed the above suit claiming the relief of permanent injunction against the second respondent/first defendant. Though the petitioners/proposed parties have alleged that the pathway situated in S.No.84/1D2 is also belonging to them and they have been using the same for several years to reach the Veerappan temple, they have not produced any iota of evidence to show a prima facie case in their favour.

8. As rightly contended by the learned counsel for the first defendant, the plaintiff has specifically pleaded cause of action against the first defendant and no other cause of action against the proposed parties.

9. It is pertinent to note that the suit was filed in the year 2012 and the same is pending for the past more than 11 years.

10. As rightly observed by the learned trial Judge, in case if the revision petitioners/proposed parties are having evidence to substantiate their plea, they can very well file a separate suit and there is absolutely no bar or prohibition for the same.



C.R.P(MD)No.1694 of 2019

WEB COPY

11. On considering the entire facts and circumstances of the case, as rightly contended by the learned counsel for the respondents, the finding of the trial Court that the presence of the revision petitioners is not necessary to decide the issues involved in the suit and as such, the impugned order dismissing the petition cannot be found fault with. Consequently, this Court concludes that the Civil Revision Petition is devoid of merits and the same is liable to be dismissed.

12. In the result, the Civil Revision Petition is dismissed. Since the suit is pending from 2012, the learned trial Judge is directed to complete the trial and dispose of the suit within a period of three months from the date of receipt of copy of this order. Consequently connected Miscellaneous Petition is closed. No costs.

09.02.2024

NCC :yes/No
Index :yes/No
Internet :yes/No
das



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C.R.P(MD)No.1694 of 2019

To

- 1.The District Munsif, Aundipatti, Theni District.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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C.R.P(MD)No.1694 of 2019

K.MURALI SHANKAR,J.

DAS

Order made in
C.R.P.(MD)No.1694 of 2019
and
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Dated : 09.02.2024