



**C.R.P(MD)No.2245 of 2024**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED : 18.09.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**C.R.P(MD)No.2245 of 2024**

1.Bharathalingam

2.Mohana Rani

... Petitioners /  
Petitioners /  
Defendants 2 & 3

**Vs.**

1.R.Kasthuri

2.Minor Prabanchan

3.Minor Vasundar  
*(R.2 & R.3 are represented by its  
mother and natural guardian first  
respondent)*

... Respondents 1 to 3/  
Respondents 1 to 3/  
Plaintiffs

4.N.Rajasekaran

5.B.Muthukumaran

6.Suganya

... Respondents 4 to 6/  
Respondents 4 to 6/  
Defendants 1, 4 & 5



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Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to allow the civil revision petition and consequently direct the IVth Additional District Munsif Court, Madurai to take on file the counter claim and additional written statement in unnumbered IA SR.No.4918 of 2023 in O.S.No.264 of 2022 on the file of the IVth Additional District Munsif Court, Madurai.

For Petitioners : Mr.S.Murugapandi

### **ORDER**

Heard the learned counsel for the revision petitioners. Issuance of notice to the respondents is dispensed with.

2.The defendants 2 and 3 in O.S.No.264 of 2022 on the file of the IVth Additional District Munsif Court, Madurai are the revision petitioners herein. The respondents herein filed the said suit seeking permanent injunction that they should not be evicted except by due process of law from the suit property. In the said suit, the defendants filed written statement. Subsequently, they filed additional written statement with counter claim. The petitioners herein allege that the



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plaintiffs have trespassed in to the suit property. The petitioners therefore seek mandatory injunction for directing the plaintiffs to remove themselves from the suit property by taking away their belongings.

3.The Court below returned the counter claim on the ground that the prayer is in the nature of recovery of possession and that therefore the Court fee must be paid accordingly. Challenging the said return, this Civil Revision Petition has been filed.

4.The counter claim is only for mandatory injunction and therefore the Court fee paid by the petitioners is in order. The learned counsel for the petitioners draws my attention to the decision reported in **2022 (3) CTC 878 (Bharat Bhushan Gupta Vs. Pratap Narain Verma & Another)**. It has been held therein that the suit for mandatory injunction is not required to be valued at the market value of the property and that the suit value has to be decided with reference to the relief claimed. In this case, the revision petitioners sought only mandatory injunction and therefore the valuation cannot be said to be improper.



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5. Whether the revision petitioners are entitled to maintain such a prayer can be decided later. The plaintiffs can even seek rejection of the counter claim on the ground that they should seek only recovery of possession and that the Court fee must be paid on the market value. This issue can be decided later. The Court below need not enter into such a question at this stage.

6. In this view of the matter, the Court below is directed to number the Interlocutory Application filed by the revision petitioners herein. The issues raised by the Court below at this stage can be decided later after the plaintiffs raise the said question. The impugned return is set aside.

7. Registry is directed to return the original papers to the learned counsel for the revision petitioner after the same are substituted by true copies. The Court below shall number the Interlocutory Application and decide the issue of maintainability of prayer for mandatory injunction as well as Court fee later.



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8.This Civil Revision Petition is allowed accordingly. There shall

be no order as to costs.

**18.09.2024**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes/ No  
MGA

**Note: Registry is directed to return the original papers to the learned counsel for the revision petitioner after the same are substituted by true copies.**

To

IVth Additional District Munsif Court,  
Madurai.



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**G.R.SWAMINATHAN, J.**

MGA

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