



C.R.P.(NPD)(MD).No.2440 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(NPD)(MD)No.2440 of 2018

and

C.M.P(MD) No.10873 of 2018

Rengasamy (died)

1. Lakshmi
2. R.Sakthikumar
3. R.Paranjothi

... Petitioners/Petitioners/Plaintiffs

-VS-

1. The Panchayat President,
Periyakottai Village,
Dindigul Taluk.
2. The Commissioner of Panchayat Union,
Dindigul.
3. The District Collector,
Dindigul.
4. The Tahsildar,
Dindigul East.

... Respondents/Respondents/
Defendants



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PRAYER: Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, against the fair and decreetal order passed in E.P.No.63 of 2007 in O.S.No.33 of 2000, on the file of the learned Additional District Munsif, Dindigul, dated 09.07.2018.

For Petitioners : Mr.M.P.Senthil

For Respondents : Mr.C.Satheesh
Government Advocate

ORDER

The present Civil Revision Petition has been filed by the decree holders challenging the dismissal of the application filed under Order 21 Rule 32 of C.P.C.

2. The revision petitioners herein had filed O.S.No.33 of 2000 on the file of the Additional District Munsif Court, Dindigul, for the relief of permanent injunction as against the Panchayath Officials, the Tahsildar and the District Collector. The suit was dismissed by the trial Court, by the judgment and decree dated 20.06.2001. The plaintiffs had filed A.S.No.102 of 2002, before the Principal Sub Court, Dindigul. The first appellate Court was pleased to allow the appeal and granted a decree on 21.04.2004.



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3. According to the plaintiffs/decreed holders, the panchayath had permitted certain persons to encroach upon the property pending suit. Only on the said ground that some third parties have encroached over the suit schedule property, the suit came to be dismissed by the trial Court. The first appellate Court had arrived at a finding that the encroachments have been made pending suit, and hence even, without impleading those encroachers, the suit is maintainable and proceeded to grant decree in favour of the decreed holders.

4. According to the decreed holders, the Panchayath Officials are responsible for removal of encroachments. In view of the fact that only on their permission such encroachments have been made and based on the said allegations, the decreed holders have filed E.P.No.63 of 2007 under Order 21 Rule 32 of C.P.C. However, the officials of the Panchayath had contended that they are not responsible for the encroachments and those encroachments have been made by the third parties. Based upon the submissions made by the officials of the Panchayath, the Execution Court, had dismissed E.P.No.63 of 2007 on the ground that there are no records to connect the encroachers with the officials of the Panchayath. Challenging the same, the present Revision Petition has been filed.



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5. A perusal of the typed set of papers clearly show that the Panchayath has already issued notice to the encroachers for removing encroachments. It is also brought to the notice of this Court that some of the encroachers have challenged the said notices before this Court. Therefore, it is clear that the Panchayath had already initiated proper action for removal of the encroachments. When the Panchayath is cooperating with the decree holders for removal of the encroachments, it is not proper to allege that the Panchayath had permitted the encroachments in the property of the plaintiffs.

6. In view of the above said facts, the order passed by the trial Court dismissing the Execution Petition stands confirmed. However, the officials of the Panchayath are at liberty to proceed in accordance with law for evicting the encroachers in the suit property based upon the decree in A.S.No.102 of 2002.



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7. With the above said observation, this Civil Revision Petition stands disposed of. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

05.04.2024

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

1. The Additional District Munsif, Dindigul.
2. The Commissioner of Panchayat Union,
Dindigul.
3. The District Collector,
Dindigul.
4. The Tahsildar,
Dindigul East



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R.VIJAYAKUMAR,J.

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