



C.R.P.(MD)No.2508 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 17.10.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.2508 of 2022

and

C.M.P.(MD)No.12333 of 2022

1.K.Saraswathi Achi

2.S.Kathiresan

... Petitioners / Defendants 1 & 2

Vs.

1.C.Ramalingam

2.AL.Pakkiam

3.AL.Murugesan

4.AL.Kalaiselvi

5.AL.Manikandan

6.AL.Karthikeyan

... Respondents / Plaintiffs 1 to 6

7.K.Muthukala

K.Latha (Died)

8.K.Velumurugan

9.AL.SP.Suresh

10.S.Jeyam

11.R.Sumathi

12.R.Prabakaran

13.R.Balagi

... Respondents 7 to 13/
Defendants 3 to 10



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Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records and reject the plaint in O.S.No.162 of 2021 on the file of the Principal District Court, Pudukkottai and allow the civil revision petition.

For Petitioners : Mr.AR.L.Sundaresan, Senior Counsel,
For Mr.C.Mahadevan,

For Respondents : Mr.M.Mahaboob Athiff for R1 to R6.
No appearance for R9 to R13.

* * *

ORDER

Heard the learned counsel for the revision petitioners and the learned counsel for the respondents 1 to 6.

2.This civil revision petition has been filed to strike of O.S.No.162 of 2021 on the file of the Principal District Court, Pudukkottai.

3.The learned senior counsel for the revision petitioners who have been shown as the defendants 1 and 2 in the suit would contend that the very institution of the suit is an abuse of legal process as it amounts to re-litigation.

4.It is submitted that the first revision petitioner filed O.S.No.51 of 2000 on the file of the District Munsif Court, Thirumayam for injunction. Whereas



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the first respondent herein and the father of the other respondents joined together filed O.S.No.54 of 2000 on the file of the District Munsif Court, Thirumayam for permanent injunction. It is not in dispute that the suit property covered by O.S.No.162 of 2021 and the suit schedule set out in the aforesaid suits is one and the same.

5.While the trial Court dismissed O.S.No.51 of 2000 and decreed O.S.No.54 of 2000, the first appellate Court reversed the decision of the trial Court vide judgment and decree dated 19.06.2014 in A.S.Nos.14 and 23 of 2013. The learned senior counsel took me through the judgment rendered by the Principal District Court, Pudukkottai in the aforesaid first appeals.

6.The only question that calls for consideration is whether file of O.S.No.162 of 2021 would amount to re-litigation.

7.The earlier suits were for the relief of bare injunction. A finding was rendered by the first appellate Court in the earlier round that Saraswathi Aachi is in possession of the suit property and it was on that premise, O.S.No.51 of 2000 was decreed as prayed for and O.S.No.54 of 2000 was dismissed.



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8.The present suit is one for declaration, recovery of possession and for other reliefs. The cause of action for filing O.S.No.162 of 2021 is entirely different. The plaintiffs in O.S.No.54 of 2000 filed the suit for bare injunction based on the claim that they are in possession. Since it was negatived, they have now come forward with a suit for declaration and recovery of possession. No exception can be taken thereto. The learned senior counsel for the revision petitioners would strongly contend that the present suit is hopelessly barred by limitation. Such an issue can be gone into either in the main suit or in the application filed under Order VII Rule 11 of Civil Procedure Code. The question of considering such a contention in a petition filed under Article 227 of the Constitution of India does not arise at all. Permitting the petitioners to work out their rights in the manner known to law and leaving open all their contentions, this civil revision petition is dismissed. The learned Principal District Judge, Pudukkottai is directed to dispose of O.S.No.162 of 2021 on merits and in accordance with law within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

17.10.2024

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

The Principal District Court,
Pudukkottai.



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G.R.SWAMINATHAN, J.

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