CRP.No.1374 of 2025**P.B.BALAJI, J.**

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Today, this matter is listed under the caption “For Being Mentioned” at the instance of the learned counsel for the petitioner.

2. Learned counsel for the petitioners submits that the suit is of the year 2018 and the same is kept pending for the past seven years. Hence, it would suffice, if this Court issues necessary direction to the trial Court to dispose of the suit pending in O.S.No.131 of 2018 as expeditiously as possible.

3. Learned counsel for the respondent has no serious objection for suitable directions being issued to the trial court in this regard.

4. In view of the above, the paragraph No.21 of the order dated 14.08.2025 shall stand substituted with the following paragraph:-

“21. In fine, the Civil Revision Petition is dismissed. However, considering that the suit is of the year 2018 and that the pleadings have already been completed, the trial Court shall expedite the trial in O.S.No.131 of 2018 and dispose of the same finally on merits and in accordance with law on or before 30.04.2026, after hearing the parties. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.”



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CRP.No.1374 of 2025



P.B.BALAJI, J.

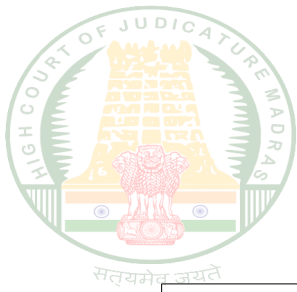
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5. Registry is directed to carry out the aforesaid correction in respect of para No.21 in the order dated 14.08.2025 and issue a fresh copy of the order to the learned counsel for the parties.

28.08.2025

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CRP.No.1374 of 2025



THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 21.07.2025

Order pronounced on : 14.08.2025

CORAM

THE HON'BLE MR. JUSTICE P.B.BALAJI

CRP.No.1374 of 2025
& CMP.No.8138 of 2025

1.Rithvik Ramesh
2.Prednya Ramesh

..Petitioners

Vs.

Padmavathi

..Respondent

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 20.09.2023 passed in C.M.A.No.12 of 2022 on the file of the Subordinate Judge, Pollachi.

For Petitioners : Mr.T.Mohan
Senior Counsellor
for Mr.M.Elumalai

For Respondent : Mr.T.P.Manoharan
Senior Counsellor
for Mr.T.M.Naveen

ORDER

The plaintiffs in O.S.NO.131 of 2018, aggrieved by the dismissal of I.A.No.609 of 2018, filed C.M.A.No.12 of 2022, which also came to be



dismissed, confirming the order of the Trial Court. Challenging the said concurrent findings, the plaintiffs are before this Court.

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2.I have heard Mr.T.Mohan, learned Senior Counsel for Mr.M.Elumalai, learned counsel for the petitioners/plaintiffs and Mr.T.P.Manoharan, learned Senior Counsel for Mr.T.M.Naveen, learned counsel for the respondent/defendant.

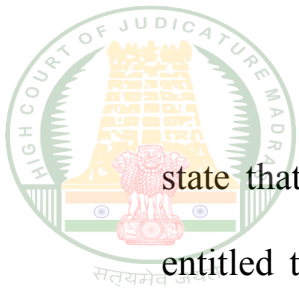
3.Mr.T.Mohan, learned Senior Counsel appearing for the petitioners would state that the dispute revolves around a cart track and since the defendant was obstructing the use of the cart track by the plaintiffs, the suit came to be filed. He would also invite my attention to the fact that at the time of filing of the suit, an ex-parte interim injunction was granted by the Trial Court and subsequently, an Advocate Commissioner was also appointed and his report was also filed before the Trial Court. However, the learned Senior Counsel would however contend that without even referring to the said Advocate Commissioner's report, both the Trial Court as well as the First Appellate Court have proceeded to non suit the plaintiffs. He would further state that the properties of the petitioners and the respondent is contiguous and it is not the case of the respondent that there is any other property and therefore, the only reference can be to the subject cart track over which the plaintiffs had a right



and in this regard, he would invite my attention to the report of the Advocate Commissioner's report as well as the plan to substantiate his arguments that if the said cart track was not available, then the land belonging to the plaintiffs would be completely landlocked.

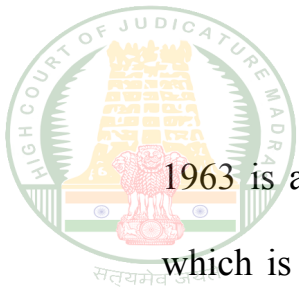
4.The learned Senior Counsel for the petitioners would also find fault with the findings arrived at by the First Appellate Court, holding that it is not possible for the parties to be adjoining land owners when the lands are situate in two different villages. The learned Senior Counsel would further state that the contentious issues only can be tested after trial of the suit and the Court should have only gone by the trinity principles, namely prima facie case, balance of convenience and irreparable hardship. He would also state that all the three were in favour of the plaintiffs in the present case and despite the same, the Trial Court as well as First Appellate Court have declined to grant an interim injunction, thereby causing irreparable loss and hardships to the revision petitioners.

5.The learned Senior Counsel for the petitioners would also state that this Court, while admitting CRP, granted an interim order and the said interim order has also not been obeyed and a contempt petition has been filed and the respondent has been called upon to appear in person as well. He would therefore



state that unless the respondents purge themselves of contempt, they are not entitled to any equitable relief from this Court. He would also state that the defendant has not even chosen to file objections to the Commissioner's report which clearly indicate the existence of the suit cart track. He would further state that the plaintiffs have to harvest crops in their lands and unless they are given an access, they would not be in a position to reach their agricultural lands in order to carry out the harvest. He would therefore pray for the revision being allowed, confirming the interim order granted by this Court and thereby setting aside the orders of the Trial Court as well as the First Appellate Court.

6.Per contra, Mr.T.P.Manoharan, learned Senior Counsel appearing for the respondent would state that the rights which were never available to the plaintiffs' vendor was mischievously introduced in a document executed in 2003 and after 40 years, a claim has been created as if the cart track serves as access to the plaintiffs. He would further state that in the earlier partition deed dated 24.06.1963 to which the grandfather of the revision petitioners and the husband of the respondent were executants, there is no reference to any cart track passing through S.F.Nos.74 and 75, which according to the respondent, belongs to the respondent absolutely. The only cart track which is referred to in the said partition deed is a mamool cart track and according to the learned Senior Counsel, the said cart track which is referred to the partition deed of the year



1963 is a Government cart track, which runs in S.F.Nos.72, 73 and 76 alone, which is adjoining to S.F.Nos.74 and 75. The lands in S.F.Nos.74 and 75 are owned by the respondent and the petitioners as well as the respondent have access from the respective lands to enter the cart track at any point and therefore, there was no necessity for the petitioners to claim that they had right of usage of the cart track inside or through the lands of the respondent.

7.The learned Senior Counsel would further state that the Commissioner inspected the property without even giving a notice to the respondent and the report of the Commissioner is even contrary to the plaintiffs' pleadings in the suit and therefore, no reliance can be placed on the said Advocate Commissioner's report. Therefore, the learned Senior Counsel would contend that the non reference to the Commissioner's report by the Trial Court as well as the First Appellate Court is not in any way prejudiced the case of the revision petitioners. The learned Senior Counsel would further state that the lands in S.F.Nos.74 and 75 are coconut groves, which are in the absolute possession and enjoyment of the respondent and the petitioners have no iota of right, much less right of usage of a non existing cart track in the said survey numbers. The learned Senior Counsel would state that despite filing the suit, the petitioners have also approached the Tahsildar cum Executive Magistrate and initiated proceedings under Section 145 of the Cr.P.C in respect of the very same issue



and even the Tahsildar has found that the petitioners have no right to go through the lands belonging to the respondent.

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8.The learned Senior Counsel for the respondent would also state that there is an inordinate delay in approaching the Court and despite the injunction application being dismissed by the Trial Court on 09.12.2020 and the appeal preferred therefrom also being dismissed on 20.09.2023, the petitioners have not chosen to approach this Court immediately by way of revision. Instead, admittedly they have gone to the revenue authorities and despite the Tahsildar cum Executive Magistrate, having no jurisdiction to interfere with the matter, has passed orders under Section 145 of Cr.P.C and directed the respondent not to interfere with the petitioners' right till disposal of the suit in O.S.No.131 of 2018. The learned Senior Counsel would therefore state that the Tahsildar has virtually granted interim injunction as prayed for by the petitioners, despite the competent Civil Court dismissing the injunction application and the appeal filed therefrom also came to be dismissed. He would further state that the revision has been filed only in March 2025 and an injunction application has been granted by this Court at the time of admission.

9.It is the further contention of the learned Senior Counsel for the respondent that the petitioners have misled this Court by falsely stating that the



cart track is east to west through the lands in S.F.No.74 and turns south in S.F.No.74 and 75 which belongs to the defendant and further continues up to S.F.No.39/A. The learned Senior Counsel would state that this case was never pleaded by the petitioners before the Courts below and therefore, the injunction granted in the above revision and subsequently extended from time to time is also liable to be vacated. The learned Senior Counsel would state that insofar as the statutory notice issued in the contempt petition, the same is being defended in accordance with law and the same has no direct bearing insofar as the grounds of challenge in the revision are concerned, which according to the learned Senior Counsel, are baseless and no interference is warranted with the concurrent findings of the Trial Court as well as the First Appellate Court.

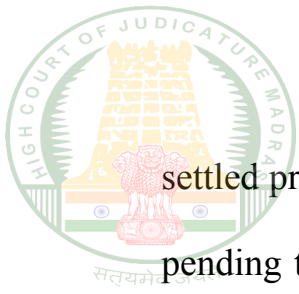
10.I have carefully considered the submissions advanced by the learned Senior Counsel on either side. I have also gone through the Advocate Commissioner's report as well as the sketch that has been filed by the Commissioner even before the Trial Court.

11.No doubt, both the Trial Court as well as the Appellate Court have not even chosen to refer to the report of the Advocate Commissioner. The main contention of the petitioners is that the pathway that is available inside the respondent's property is a common cart track, in which the petitioners also have



a right and that if not for the said cart track, the petitioners would not be in a position to even reach their property. The Commissioner, who was appointed by the Trial Court, has filed a report as early as on 26.04.2018, wherein the Commissioner has stated that he has inspected the property on 13.04.2018, in the presence of the petitioners and the petitioners' advocate. The Advocate Commissioner's report has further stated that there is a pathway, which runs through the defendant's property and beyond. The only the issue that requires consideration is whether the said pathway which has been identified by the Commissioner is the pathway belonging to the respondent absolutely or whether it is the cart track which is mentioned in the registered documents. The contentious issues as to whether the right of the petitioners flowing under the 2003 document is true or whether the clause has been mischievously introduced, despite no such right being available in the parent documents, are all matters for trial. At the stage of granting an interim order, the Trial Court is called upon to only see if there is any prima facie case made out for grant of injunction and whether if such injunction is not granted, irreparable loss and hardship would be caused to the petitioner and whether balance of convenience is in favour of the petitioners or not.

12. In this backdrop, I have perused the orders of the Courts below. The decisions that have been relied on by the petitioner are also with regard to the



settled principles of law while dealing with an application for interim injunction pending the suit and therefore, the trinity principles will have to be considered while deciding an application for interim injunction. In this backdrop, I have examined the orders of the Trial Court as well as the First Appellate Court. The Trial Court has found from the pleadings in the interlocutory application as well as documents relied on by the parties that in the 1963 partition deed, though there is reference with regard to a cart track in S.F.Nos.74 and 75, the petitioners have miserably failed to establish that the petitioners have a right to use the said cart track in S.F.Nos.74 and 75 and that the defendant has interfered with such right and further held that only after the parties lead oral and documentary evidence, the entitlement of the petitioners to the relief of interim injunction can be adjudicated upon.

13.The First Appellate Court finding that 'B' schedule cart track runs in S.F.No.74 & 75 of Somanthurai village and the property of the petitioners is situate in Thensangampalayam village, adjoining the property of the petitioners and that there is a common east-west cart track situate on the Northern side of the respondent's lands in S.F.No.73 which turns from western end towards south in S.F.Nos.74 and 75 and runs up to the petitioners' land was the case of the petitioners and that the common mamool pathway mentioned in the partition deed dated 24.06.2023 is the only cart track to enter 'A' schedule property



through 'B' schedule property cart track.

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14. Referring to the partition deed, the First Appellate Court has also found that there is no reference to 'B' schedule cart track even in the 1963 partition deed under which S.F.Nos.74 and 75 was allotted to Ganapathi Gounder absolutely and therefore holding that no right was vested upon the revision petitioners in the said Ex.P1-partition deed in respect of 'B' schedule property, the subsequent documents in Ex.P2 and Ex.P3 incorporating a right of cart track in S.F.Nos.74 and 75 cannot bind the respondent, who is admittedly not a party to Ex.P2 and Ex.P3.

15. The First Appellate Court also concurred with the findings regarding the revision petitioners not being able to substantiate their entitlement or the allegation of interference by production of sufficient satisfactory evidence to warrant an interim injunction to be granted. Much reliance has been placed on by the learned Senior Counsel for the petitioners on the Commissioner's report. Unfortunately, I am unable to draw any inspiration from the Commissioner's report for the simple reason that the Commissioner does not give any measurements. He has not even indicated the survey numbers in which properties lie. Ideally, the Advocate Commissioner should have taken



help of the Taluk Surveyor before embarking on the local inspection. The rough plan that has been filed by the Advocate Commissioner does not convincingly establish that there is no other pathway for the plaintiffs to reach their lands, excepting through the property of the defendant.

16. Even in the sketch filed along with the report, it only indicates that the cart track is adjoining the boundary of the defendants' property on the southern side and connects Palaru Road on the northern side. It is also indicated that the said cart track proceeds on the western side and turns on the southern side to reach the plaintiffs property. If the Commissioner had taken the assistance of the Taluk Surveyor and identified the survey numbers and lay of the cart track, it would have been of some assistance to the Court to decide the entitlement of the plaintiffs. I am not able to see that the said report and the plan are of any assistance and therefore, the fact that the Courts below have not even referred to the report, in my considered opinion, has not in any way prejudiced the case of the revision petitioners.

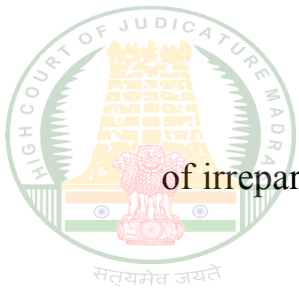
17. With regard to the *prima facie* case, having found that the 'B' schedule property which is comprised in S.F.Nos.74 and 75 was allotted absolutely to the defendant's father and no right of pathway was created in the said survey numbers, the plaintiffs have certainly not made out a *prima facie* case for grant



of an interim injunction.

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18. Even with regard to irreparable loss and hardship, it is seen that despite the suit having been filed in the year 2020 and the injunction application having been dismissed by the Trial Court on 09.12.2020 and the appeal therefrom in C.M.A.No.12 of 2012 also having been dismissed on 20.09.2023, the petitioners never chose to challenge the same before this Court by filing a revision immediately, on the contrary, they have approached the revenue authorities and initiated proceedings under Section 145 of the Cr.P.C. After a lapse of close to 1 ½ years they have chosen to file the revision before this Court and only at the time of admission of the revision, an injunction has been granted in favour of the petitioners. Even according to the petitioners, the said injunction order has not been obeyed and therefore, contempt proceedings have been initiated. This only goes to show that no serious prejudice has been caused to the petitioners. Therefore, if really the contention of the petitioners is that they have no other access to reach their lands and that the crops have to be harvested immediately is of any merit or contains any truth, then the petitioners would not have lost any time whatsoever in challenging the order of the First Appellate Court dismissing the CMA. On the contrary, the petitioners have taken their own sweet time to challenge the said order, after attempting to obtain favourable orders before the revenue authorities. Therefore, even the principle



of irreparable loss and hardship is not in favour of the petitioners.

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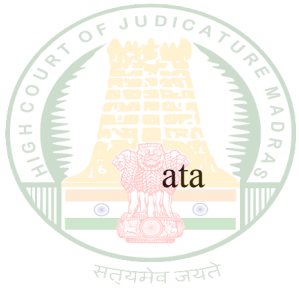
19.Insofar as balance of convenience as well, in view of the above and in the light of the fact that admittedly the property comprised in S.Nos.74 and 75 has been absolutely allotted to the respondent, it is the respondent who would be put to serious prejudice and hardships, if an interim injunction is granted in the matter.

20.In view of the above discussions, I find that the petitioners have not made out a case for grant of an interim injunction. The Courts below have rightly dismissed the injunction application and held that the plaintiffs' entitlement can be decided only after the parties lead oral and documentary evidence and the suit is ultimately decided on merits. I do not find any perversity or illegality in the findings arrived at the Trial Court as well as the First Appellate Court warranting interference in this revision.

21.In fine, the Civil Revision Petition is dismissed. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

14.08.2025

Speaking/Non-speaking order
Index : Yes/No



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CRP.No.1374 of 2017



To

The Subordinate Court, Pollachi.



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CRP.No.1374 of 2025



P.B.BALAJI.J.

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Pre-delivery order made in
CRP.No.1374 of 2025
& CMP.No.8138 of 2025



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CRP.No.1374 of 2



14.08.2025