



C.R.P.No.644 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-09-2025

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

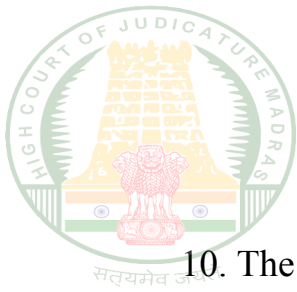
C.R.P.No.644 of 2025

Chettiannan alias Chettiya Gounder

.... Petitioner

Vs

- 1.Periasamy alias Periannan
- 2.Senthil
- 3.Kangamuthu
- 4.Duraisamy
- 5.The State rep by
District Collector,
Salem having Office at Collectorate,
Salem, Salem District.
6. The Revenue Divisional Officer,
Attur having Office at
Attur Revenue Divisional Office,
Attur Town and Taluk, Salem District.
7. The Tahsildar,
Gangavalli,
Having Office at Gangavalli Taluk Office,
Gangavalli Post and Taluk, Salem District.
8. The Taluk Head Surveyor,
Having Office at Gangavalli Taluk Office,
Gangavalli Post and Taluk, Salem District.
9. The VAO,
Naduvalur Village,
having office at Naduvalur Village,
Gangavalli Taluk, Salem District.



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10. The S.I of Police,
Gangavalli Police Station,
Gangavalli Post and Taluk,
Salem District.

.... Respondents

Revision filed under Section 115 of Civil Procedure Code against the fair and decretal order made in unnumbered O.S.....975 of 2023 (TNSA 12000-914-2023) dated 06.12.2023 on the file of Subordinate Court, Attur (Salem District).

For Petitioner : Mr.K.Prem Kumar

For Respondents: Mr.N.Muthuvel

Govt.Advocate

For R.5 to R.10

No appearance – R.1 to R.4

ORDER

Heard Mr.K.Prem Kumar, learned counsel for the petitioner and Mr.N.Muthuvel, learned Government Advocate for the official respondents.

2. Learned Sub Judge, Attur in and by an order dated 06.12.2023 has rejected the plaint even at the unnumbered stage. The said order dated 06.12.2023 is under challenge in the present revision.

3. Learned counsel for the petitioner, first and foremost contended that the trial Court, without even giving an opportunity to the petitioner, who is the plaintiff in the suit, to even advance arguments regarding maintainability,



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has unilaterally proceeded to discuss the merits of the plaint and rejected the same. He further states that it is in violation of the dictum of this Court in the case of ***Selvaraj and others vs Koodankulam Nuclear Power Plant Indian Ltd in CRP (MD) Nos.915, 943, 967, 991 and 330 of 2020 dated 16.07.2021*** reported in ***2021 4 CTC 539***.

4. Mr.N.Muthuvel, learned Government Advocate appearing for the official respondents would state that the suit property is admittedly government lands and the petitioner himself has filed an appeal which is pending before District Collector and he therefore states that the suit is not maintainable and the trial Court has rightly rejected the plaint.

5. Firstly, the approach adopted by the trial court in conducting a roving enquiry even at the pre-registration stage has been frowned upon by this Court in the case of ***Selvaraj and others vs Koodankulam Nuclear Power Plant Indian Ltd in CRP (MD) Nos.915, 943, 967, 991 and 330 of 2020 dated 16.07.2021*** reported in ***2021 4 CTC 539***.

6. The suit, in fact, is to declare the petitioner as the owner, by adverse



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possession. Now, the Hon'ble Supreme Court has also held that adverse possession is no longer merely a defence, or a shield, but can also be used as a Sword. Therefore, the suit seeking declaration based on adverse possession is now maintainable.

7. In any event, the trial Court ought not to have conducted a detailed examination of the records and found that the plaintiff has not enclosed any documentary evidence to establish his case and proceeded to reject the plaint.

8. Insofar as the proceedings pending before the District Collector, the petitioner states that these proceedings are arising under the Tamil Nadu Land Encroachment Act and it has nothing to do with the present case.

9. Be that as it may, the trial court should have atleast heard the learned counsel for the petitioner as plaintiff, before passing any orders regarding maintainability of the suit. However, as directed by this Court in the case of *Selvaraj and others vs Koodankulam Nuclear Power Plant Indian Ltd in CRP (MD) Nos.915, 943, 967, 991 and 330 of 2020 dated 16.07.2021*, reported in *2021 4 CTC 539*, the trial Court should have numbered the suit



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and given opportunity to the parties to have the same decided on merits. It is always open to the Government to take out an application for rejection of the plaint. However, the role of the defendants cannot be taken up by the Court itself, that too, when it is performing only a ministerial act, at the time of registration of the suit i.e., numbering stage. The order also does not reflect that counsel for the plaintiff was heard before the order was passed.

10. In view of the above, I am inclined to set aside the order dated 06.12.2023 and the trial court shall number the suit, if it is otherwise in order and it is open to the respondents/defendants to take out an application for rejection of the plaint, if they are so advised.

11. With the above direction, the civil revision petition is allowed. No costs.

23.09.2025

Index: Yes/No
Website:yes/no
Speaking Order/Non-speaking Order
sr

P.B.BALAJI,,J



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To

The Subordinate Court, Attur

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