

WEB COPY



Civil Revision Petition No. 245 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.04.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.No. 245 of 2025
and C.M.P.No.1583 of 2025

Elumalai

... Petitioner

Vs

1. Periyazhvar

2. Tasildar, Taluk office
Gingee Taluk

3. The Distict Collector ,
Villupuram,
District Collectorate building
Villupuram.

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India praying to to set aside the Fair and Decretal order 14.08.2024 passed in I.A.No.1028 of 2023 in O.S.No.631 of 2016 on the file of the Principal District Munsif Court, Gingee.

For Petitioner

: Ms.T.Yazhini
for Ms.P.Bhuvaneswari



WEB COPY



Civil Revision Petition No. 245 of 2023

For Respondent-1 : M/s.L.K.Manjunath
for M/s.Sri Manjunatha Law
Associates

For Respondents 2 and 3: Mr.N.Muthuvel
Government Advocate

ORDER

Challenging the dismissal of his application for amending the relief portion of the plaint, the plaintiff in the suit O.S.No.631 of 2016 on the file of the Principal District Court, Gingee is before this Court.

2. The short facts which is the run up to the filing of the above civil revision petition is that the plaintiff had filed the aforesaid suit seeking a permanent injunction restraining the defendants their men and agents from in any manner interfering with his possession of the II item of the suit property. The parties are referred to in the same ranking as before the trial Court.

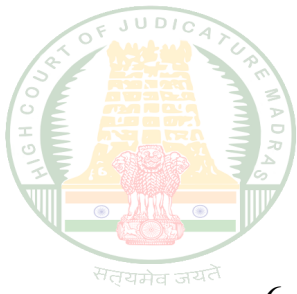
3. It is the plaintiff's contention that the suit property (Item No.1) comprised in S.No.358/2A measuring 0.29.5 hectares and S.No.358/2C measuring 0.11.5 hectares totally measuring 0.41.0 hectares (acres 1.02



cents) and Item No.2 comprised in S.No.358/1 measuring 0.11.5 hectares and other properties were his ancestral properties. It is his contention that the same belonged to his grandfather, Manna Gounder. He had owned an extent of 5.87 cents in S.No.442 which has been sub divided as S.No.442/A, B & C. Thereafter, S.No.442/C has been further sub divided as S.No.358/1 measuring 0.11.5 hectares and has been wrongly classified as barren land (Tharisu).

4. The plaintiff would submit that till his lifetime, his grandfather was enjoying the said property and thereafter, the plaintiff's father, Gopal Gounder as his sole heir had succeeded to the suit property as well as other properties. After his father's death, the plaintiff had succeeded to the property.

5. The plaintiff would further submit that the 1st defendant claimed that the II item of the suit property was a public cart track and had attempted to interfere with the plaintiff's possession of the same from the 1st week of September 2016. Therefore, the plaintiff was constrained to institute the suit.



WEB COPY

6. The 1st defendant, in his written statement, had reiterated the contention that the II Item of the suit property is a cart track and the same was being used by the general public. The defendants would contend that the plaintiff had encroached into the public cart track constraining the 1st defendant to file W.P.No.42562 of 2016 before this Court seeking a mandamus to the respondents therein 1 to 3 to remove the encroachments based on the petitioner's representation dated 23.09.2016. After the writ petition was filed, the plaintiff has come forward to file the above suit. By order dated 05.12.2016, this Court had directed the authorities to remove the encroachments and it is also seen that pursuant to the order passed by the First Bench of this Court on 04.02.2017, the District Collector had directed the removal of the encroachment on the cart track in question which was also removed and the cart track restored.

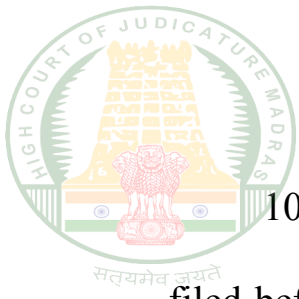
7. It appears that when the matter was at the stage of trial, the plaintiff had taken out an application for amending the plaint with reference to the relief portion on the ground that the 1st defendant had contended that the II



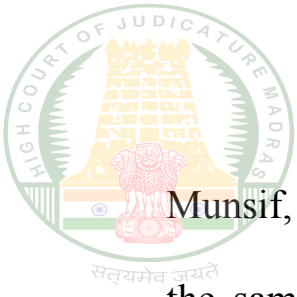
Item of the suit property was a cart track poromboke which amounted to the denial of title and hence sought to have the relief of declaration included.

8. The defendants 1 to 3 had filed a counter which was adopted by the 4th defendant wherein they have stated that the application was filed nearly 6 years after the written statement was filed and it was only an attempt to drag on the proceedings. The defendants have, in their written statement itself, claimed that the suit property is a cart track. That apart, the 1st defendant had filed a suit O.S.No.313 of 2017 against the plaintiff claiming that the suit property was a cart track and in this suit, the plaintiff has filed the written statement. Therefore, the omission to seek the relief of declaration immediately was deliberate and intentional and is therefore belated. Ultimately, the learned Judge has proceeded to dismiss the said amendment petition as being barred by the law of limitation.

9. Heard the learned counsels on either side and perused the materials available on record.



10. From a perusal of the pleadings and the documents that have been filed before this Court today, it appears that prior to the filing of the suit in question, the 1st defendant has filed a writ petition before this Court in W.P.No.42562 of 2016 claiming that the II Item of the suit property is a cart track and that obstructions were being made thereupon and therefore, sought for a mandamus to clear the encroachments on the cart track. An order to this effect was also passed on 05.12.2016 and the District Collector, pursuant to the above said order, had also directed the removal of obstructions by order dated 04.02.2015. It appears that the encroachments were also removed. The 1st defendant had also filed a suit O.S.No.313 of 2017 against the petitioner herein/plaintiff. Therefore, it is very clear that even as early in the year 2016, the plaintiff had been put on notice about the rival claim on the II Item of the suit property. Despite this, the plaintiff has sought to file the present application only in the year 2024. The defendants have categorically denied the exclusive title to the II item of the property made by the plaintiff. The plaintiff has participated in all the aforesaid proceedings namely the writ as well as the suit and can therefore not feign ignorance in the instant suit. The plaintiff/petitioner has deliberately suppressed these facts. Therefore, the order passed by the learned District



Civil Revision Petition No. 245 of 2025

Munsif, Gingee appears to be in order and I see no reason to interfere with the same. Accordingly, the civil revision petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

03.04.2025

Index: Yes/No

Speaking order/non-speaking order

Neutral Citation: Yes/No

srn

To,

The Principal District Munsif Court, Gingee.



WEB COPY



Civil Revision Petition No. 245 of 2025

P.T.ASHA, J.,

srn

C.R.P.No. 245 of 2025
and C.M.P.No.1583 of 2025

03.04.2025