



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 17.06.2025

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**THE HONOURABLE MR JUSTICE P.B. BALAJI**

CRP.No.4526 of 2024  
& CMP.No.25234 of 2024

1.R.Badrammal  
2.R.Ravikumar  
3.R.Deepa Maheswari

... Petitioners

Vs.

1.Krishnasamy  
2.Suguna

3.The District Collector,  
Collectorate, Coimbatore District.

4.The Sub-Treasury Officer,  
Sirumugai Road, Mettupalayam.

5.The District Treasury Officer,  
Collectorate Complex, Coimbatore.

6.The Director of Treasury & Accounts,  
Dhenampettai, Chennai

7.The Principal Accountant General,  
361, Anna Road, Chennai.

... Respondents

**PRAYER:** Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decretal order dated 20.03.2024 in



I.A.No.14 of 2024 in O.S.No.55 of 2018 on the file of the Subordinate Judge, Mettupalayam.

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For Petitioners : Mr.P.A.Sai Govindaraja

For Respondents : No appearance for RR1 & 2  
Mr.V.Ramesh  
Government Advocate for RR3 to 7

### **ORDER**

The petitioners are the plaintiffs, aggrieved by the Trial Court partly allowing the application in I.A.No.14 of 2024. The petitioners sought for framing of additional issues.

2.The Trial Court, after hearing the parties, has accepted the case of the petitioners, excepting for one issue, namely 'whether the Court decree and judgment in O.S.No.11 of 2007 is executed in proper manner by the 1<sup>st</sup> to 3<sup>rd</sup> defendants', and all other issues suggested by the plaintiffs have been framed.

3.The Trial Court has discussed the necessity of the said issue regarding the Court decree and judgment in O.S.No.11 of 2007, being executed in proper manner and has found that the parties to O.S.No.11 of 2007 are not parties to the present suit and the property involved in the suits



are also different and hence, the said issue cannot be framed.

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4.The learned counsel for the revision petitioners states that the defendants in the present suit are none else than the defendants in the earlier suit, who have been impleaded in their individual capacity when compensation was sought for wrongful action initiated by the defendants. He would therefore states that the issue is vital to decide the suit to adjudicate the dispute between the parties. He would therefore pray for the revision being allowed and the additional issue which has been left out by the Trial Court to also be framed.

5.Per contra, the learned Government Advocate for the respondents 3 to 7 would support the order of the Trial Court and states that the Trial Court has not committed any error, much less, patent error or illegality in omitting the said issue, while framing other issues suggested by the plaintiffs.

6.I have carefully considered the submissions advanced by the learned counsel on either side.



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7.The Trial Court has framed the following issues, post the application by the petitioners plaintiff:

*“1.Whether the plaintiffs are entitled to the relief of damages as prayed in the plaint?*

*2.Whether the defendants 1 to 3 acted in accordance with law and exceeded their official duty?*

*3.Whether the suit is barred by the principles of Res Judicata?*

*4.Whether the suit is bad for not complying Section 80 of CPC?*

*5.Whether the plaintiffs are entitled to the relief of mandatory injunction as prayed in relief (b) of the plaint?*

*6.Whether the plaintiffs are entitled to the relief of permanent injunction as prayed in relief (c) of the plaint?*

*7.Whether the suit is bad for non joinder of necessary party (Devaraj)?”*

8.The grievance of the revision petitioners/plaintiffs is that the issue that has been suggested is very vital to the decision to be taken in the present suit on the ground that the defendants have acted in a high handed manner and the decree has not been executed properly which has given rise to the cause of action to the petitioners/plaintiffs to file the suit. However, I find that the issue No.2, namely, 'whether the defendants 1 to 3 have acted in accordance with law and exceeded their final duty' would sufficiently

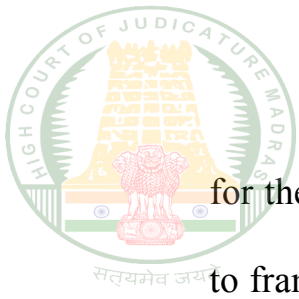


protect the interest of the petitioners/plaintiff.

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9.The evidence that would be required to be adduced by the parties with regard to the issue No.2 as framed by the Trial Court will be no different from the evidence that may be required in connection with the issue suggested by the petitioners/plaintiffs. Therefore I do not deem it necessary to include the said issue which has been omitted by the Trial Court. In fact, the Trial Court has given valid reasons for not framing the said issue which is clearly in order and do not require interference.

10.However, at the same time, as rightly contended by the learned counsel for the petitioners, though the Trial Court has taken a decision to accept all other draft issues, except the issue No.2, while framing issues, the Trial Court has omitted the issues, namely *1.Whether the act of the 1<sup>st</sup> to 3<sup>rd</sup> defendants is considered to be lawful or not?; 3.Whether the lawful procedures are followed by the 1<sup>st</sup> to 3<sup>rd</sup> defendants for removal of suit mentioned encroachment or not; and 4.Whether the 1<sup>st</sup> to 3<sup>rd</sup> defendants acted in demolishing building of plaintiffs within their sphere of duties as public officer.* There is force in the submission made by the learned counsel



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for the revision petitioners in this regard. Hence, the Trial Court is directed to frame the above said issue Nos.1, 3 and 4 as additional issues and try the suit along with the other issues, already framed.

11.With the above observation and direction, the Civil Revision Petition is partly allowed. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

17.06.2025

Speaking/Non-speaking : Yes/No

Index : Yes / No

Internet : Yes / No

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**P.B. BALAJI,J.**

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