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C.R.P. (PD) .No.5296 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.5296 of 2024

and

C.M.P.No.29531 of 2024

Chinnathurai (died)

Represented by his legal representatives 2 to 7.

1.Navaneetham

2.Mangaiyarkarasi

3.Vimala

4.Malathi

5.Rajarathinam

6.Lalitha

7.Selva Kumari

.. Petitioners

(cause title accepted vide order of
this Court dated 16.12.2024 made
in C.M.P.No.28645 of 2024 in
C.R.P.SR.No.162556 of 2024)

Vs.



1.Venkatesh

2.Bojahan

.. Respondents

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Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 08.08.2024 made in C.M.A.No.01 of 2021 on the file of Learned Subordinate Judge, Karaikal, against in I.A.No.2 of 2020 in O.S.No.511 of 2020 on the file of the learned Principal District Munsif, Karaikal, and to allow the Civil Revision Petition.

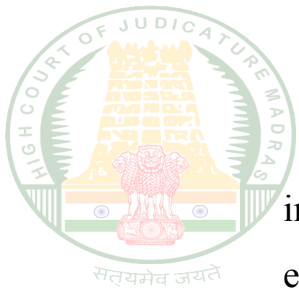
For Petitioners : Ms.H.Kavitha

ORDER

This civil revision petition arises against the order passed by the learned Subordinate Judge at Karaikal, in C.M.A.No.1 of 2021 dated 08.08.2024 in confirming the order and decreetal order of the learned Principal District Munsif, Karaikal, in I.A.No.2 of 2020 in O.S.No.511 of 2020.

2.O.S.No.511 of 2020 is a suit for the following reliefs:

“(a) For permanent injunction restraining the defendants, their men, servants, agents, henchmen, hooligans, from in any way



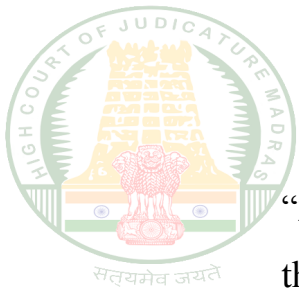
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interfering, entering, disturbing the peaceful possession and enjoyment of the plaintiffs over the suit property;

(b) Directing the defendants to pay the cost of this suit.”

3.The case of the plaintiffs is that the suit property was purchased by one S.M.Swaminathan on 11.10.1958. The 1st defendant namely, Chinnathurai had taken the property on lease from the said S.M.Swaminathan. S.M.Swaminathan had approached the Revenue Court at Karaikal under the provisions of The Pondicherry Cultivating Tenants Protection Act, 1970, in order to take possession of the property from the said Chinnathurai. The Revenue Court passed an order on 20.10.2016, removing the name of the said Chinnathurai S/o.Rethina Padayatchi from the records maintained by it. Aggrieved over the said order, a civil revision petition was preferred to this Court in C.R.P.(PD).No.1638 of 2019.

4.When the matter came up for admission before this Court, the said Chinnathurai made a clear and categorical statement, which is extracted as hereunder:-



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“2.After hearing the learned counsel on either side, it is noted that even according to the petitioner, he is not in possession of the land in S.No.101/03 to an extent of 1 Hectare and 01 Ares. Therefore, the respondent / landlord is entitled to take possession of the land for his own use.”

5.Subsequently, the revision itself was taken up for disposal. It was allowed on 17.11.2021. The case was remitted to the file of the Revenue Court at Karaikal, with a direction to redo the entire exercise including calculating the actual arrears of rent payable by the said Chinnathurai. This order dated 17.11.2021 originally covered the suit schedule mentioned property namely Survey No.101/03, to an extent of 1 Hectare and 1 Ares. Thereafter, the matter was listed 'for being mentioned' before the very same learned Judge on 14.02.2022. The learned Judge modified his order dated 17.11.2021, directing the calculation of the actual arrears of rent excluding the land in Survey No.101/03. This modified order has attained finality.

6.Prior to the disposal of the revision, O.S.No.511 of 2020 had been presented. In the said suit, the claim of the plaintiffs is that they are in possession of the property and the 1st defendant (the civil revision petitioner

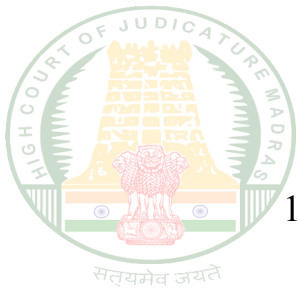


before this Court) is interfering with their possession. They also moved an application for interim injunction restraining the defendants from interfering with peaceful possession and enjoyment.

7.On being served with the summons, the defendants filed a detailed written statement. They denied the fact any forcible possession had been taken by the defendants and set up a plea that the 2nd defendant namely, Navaneetham is cultivating the property.

8.The learned Trial Judge was pleased to grant an order of injunction restraining the defendants from interfering with the peaceful possession and enjoyment of the suit property. The plea that there are no pleadings in the suit as to when and how the plaintiffs took possession of the property was considered by the Trial Judge and rejected.

9.Aggrieved by the said order, the defendants preferred C.M.A.No.1 of 2021. The learned Subordinate Judge, Karaikal, confirmed the order of injunction. Hence, the revision.



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10.I heard Ms.H.Kavitha for the civil revision petitioners.

11.Ms.H.Kavitha points out that when the eviction petition was filed before the District Collector Cum Revenue Court at Karaikal, the predecessor in title of the plaintiffs have pleaded that the 1st defendant / 1st civil revision petitioner is in possession of the property. However, without showing as to when and how they took possession of the property, they have filed the present suit for injunction and have also secured an order of interim injunction. She points out that this is an erroneous approach to the facts of the case and therefore, requires to be revised.

12.I have carefully considered the submissions of Ms.H.Kavitha.

13.The specific issue that was presented before the Revenue Court, as early as on 2016, by the predecessors in title of the plaintiff was that the 1st civil revision petitioner's name was recorded in the revenue records as a cultivating tenant. He moved an application to remove the name of the 1st civil revision petitioner as a tenant of the property. An order was passed in his favour. That was challenged before this Court. When the matter came up



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for admission, the 1st civil revision petitioner pleaded that he is not in possession of Survey No.101/03. The said statement was recorded by the Court and it was only thereafter, an interim order was granted on 15.07.2020. Subsequently, when the matter was taken up for final disposal, this Court had originally recorded as if, the civil revision petitioner herein is in occupation of the suit schedule mentioned property. However, taking note of the order dated 15.07.2020 and the statement of the learned counsel for the civil revision petitioner herein in that revision, the order was modified. The Revenue Court was directed to redo the exercise for the property which is a subject matter of the petition excluding the land in Survey No.101/03. Therefore, the reliance placed upon by Ms.H.Kavitha with respect to the order dated 17.11.2021 is misplaced, because this Court modified the said order by its subsequent order dated 14.02.2022.

14.This leaves out one other aspect, namely, the possession of the 2nd civil revision petitioner over the suit schedule mentioned property. Insofar as the 2nd civil revision petitioner is concerned, the Courts below have concurrently found that there is no record to show that the 2nd civil revision petitioner is in possession of the property or is cultivating the same. Unless



and until such finding is perverse or contrary to the records, it is not capable of being interfered with in a revision.

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15.In the light of the above discussion, I do not find any reason to interfere with the orders passed by the Courts below.

16.The finding given in this revision or by the Courts below will not affect the right of the defendants in any manner to prove that they are cultivating and are in possession of the property, at the time of final disposal of the suit. The reasoning given in the order is only for the disposal of I.A and will not bind the learned Judge in rendering the judgment after the parties have let in oral and documentary evidence.

17.In the result, this Civil Revision Petition is dismissed.
Consequently, the connected Miscellaneous Petition is closed. No costs.

09.01.2025

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No



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To

- 1.The Subordinate Judge,
Karaikal.
- 2.The Principal District Munsif,
Karaikal.



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V.LAKSHMINARAYANAN, J.

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