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CRP. PD. No.2964 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:30.06.2025

Pronounced on:18.07.2025

CORAM

THE HONOURABLE MR.JUSTICE P.B.BALAJI

CRP. PD. No.2964 of 2024

and CMP. No.15850 of 2024

1.S.Gnanavel

2.G.Radha

Petitioner(s)

Vs

1.G.Sasikumar

2.The District Collector,
Thiruvallur District,
Thiruvallur.

3.The District Revenue Officer,
Thiruvallur District,
Thiruvallur.

4.The Commissioner of Avadi,
City Municipal Corporation,
Avadi, Chennai-54.

5. The Special Tahsildhar,
(Avadi Municipality Old Building),
Avadi, Chennai-54.

6.The Commissioner,
Survey and Settlement “Survey House”,
Chennai-5

7.The Sub-Registrar,
Avadi Sub Registrar Office,
Avadi, Chennai -54.

8.The Inspector of Police (L & O),
T-6, Avadi Police Station,
Avadi, Chennai-54.

Respondent(s)

PRAYER: This Civil Revision Petition is filed under Article 227 of the



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Constitution of India, to set aside order and decree in I.A. No.1 of 2023 in O.S. No.127 of 2020 dated 21.09.2023, and consequentially pass an order in favour of the defendants, rejecting the plaint therein.

For Petitioners : Mrs.Devi Rudra

For Respondents : Mr.S.Adarsh for R1
Mr.B.Tamilnidhi,
Additional Government Pleader
for R2 to R8.

ORDER

The defendants 1 & 2 in O.S. No.127 of 2020 before the learned Principal District Munsif, Poonamallee, moved an Interlocutory Application in I.A. No.1 of 2023 under Order VII Rule 11 (a), (b) & (d) of the Code of Civil Procedure, 1908, seeking to reject the plaint. The said Application was resisted by the first respondent/plaintiff and on enquiry, the Trial Court dismissed the Application as against which the defendants 1 & 2 are before this Court by way of the above Civil Revision Petition.

2. I have heard Mrs.Devi Rudra, learned counsel for the petitioners

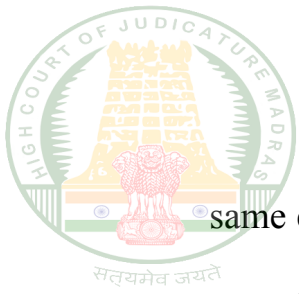


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and Mr.S.Adarsh, learned counsel for first respondent and Mr.B.Tamilnidhi, learned Additional Government Pleader for the respondents 2 to 8.

3. The learned counsel for the petitioners would contend that the suit is hopelessly barred by limitation, delay and latches; there is no cause of action for filing the suit, and the reliefs sought for in the plaint are also not maintainable as it amounts to bypassing the Land Acquisition Act, 1894. The learned counsel for the petitioners taking me through the pleadings as well as the order of the Trial Court, would contend that even in terms of the plaint document, dated 01.03.2005, which is a Tiruvallur District Gazette, the suit property was declared as a pathway. Therefore, she would contend that the suit filed in 2020 was clearly barred by doctrine of latches, delay as well as law of limitation.

4. She would also contend the plaintiff's property is abutting a 30 feet Road even as per the plaint sketch and the plaintiff has never used the defendant's property as a pathway and therefore, there is absolutely no cause of action for filing the suit. She would further contend that the defendant has purchased the property in 1983 and has been enjoying the



same ever since then and the Trial Court ought to have rejected the plaint, accepting the contentions advanced by the defendants. She would also state that without recourse to land acquisition proceedings, the plaintiff cannot be permitted to act as an agent of the Government and the suit itself is barred by the provisions of Section 9 of the CPC.

5. Per contra, learned counsel for the first respondent/plaintiff Mr.S.Adarsh, would invite my attention to the averments in the plaint and state that the question of whether the suit property is a road or not and whether it belongs to the defendants or whether it is a Government land can be adjudicated only after elaborate trial. Once the subject property has been declared as a road, Mr.Adarsh, would submit that it would always remain as road for all times to come and there is no question of limitation being put against the plaintiff.

6. Insofar as the Government Gazette being published in the year 2005, the learned counsel for the first respondent/plaintiff would invite my attention to the cause of action in the plaint and state that the cause of action arises only in June 2020, when according to the plaintiff, the defendants attempted to put up construction in the suit schedule property.



He would therefore submit that there is no infirmity in the order of the Trial Court, warranting interference under Article 227 of the Constitution of India.

7. I have carefully considered the submissions advanced by the learned counsel son either side.

8. Insofar as the suit is concerned, the first respondent/plaintiff has sought for the following reliefs:

“(a) Declaration declaring plain schedule of property in plaint enclosed sketch C D E F belongs to Government land, to publish it in the Tiruvallur District Gazette & if the defendant 3, 4, 5 & 6 did not take possession, the plaintiff to take recovery of possession on behalf of the defendants 3, 4, 5 & 6.

(b) Permanent Injunction restraining the first and second defendants, their men agents, servants etc., from putting up any construction or alterations in the suit schedule property in the sketch C D E F till disposal of the suit.

(c) Direct the defendant to pay the cost of the suit and pass further or other reliefs as this Honourable Court may deem fit and proper in the circumstances of the case.”

9. The case of the defendants/revision petitioners is that the suit property has been in the possession of the defendants for the past several years. However, the plaint proceeds on a cause of action that the



defendants attempted to put up construction in the suit property on 06.06.2020. These factual aspects have to be dealt with only after the parties lead evidence. The mere fact that in 2005, the Gazette was published and that under the same, the property was declared as a road does not dis-entitle the plaintiff to file a suit to ensure that the road is not encroached by the defendants and moreso, when the cause of action for the suit is alleged to have arisen only in June, 2020.

10. The issue whether the road is belonging to the Government in view of the Gazette notification in 2005 or whether it is the private property of the defendants are purely matters of fact and it cannot be decided summarily and therefore, an Application under Order VII Rule 11 CPC cannot be sought rejection of the plaint. The Trial Court has rightly found that the parties will have to lead evidence, oral and documentary and the issues have to be decided after trial.

11. I do not see any infirmity in the finding arrived at by the Trial Court and no merit in this Civil Revision Petition. Accordingly, this Civil Revision Petition is dismissed. Considering the fact that the suit is pending from 2020, the trial court is directed to expedite the trial and



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in any event dispose of the suit finally, on merits and in accordance with law, within period of three months from the date of receipt of a copy, after affording opportunity to the parties. Connected Miscellaneous Petition is also dismissed. No costs.

18.07.2025

rkp

Index : Yes / No

Internet : Yes / No

To:

The Principal District Munsif,
Poonamallee.

P.B.BALAJI, J.,

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Pre-delivery order in
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