



C.R.P.No.364 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.03.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.No.364 of 2025

&

C.M.P.No. 2195 of 2025

1.Sengoda Gounder

2.Subramania Gounder

...Petitioners

Vs.

1.Nallammal

2.Saraswathi

...Respondents

Prayer: . Civil Revision Petition is filed under Article 227 of the Constitution of India against the order dated 11.11.2024 made in IA.No.5 of 2024 in OS.No.198 of 2023 on the file of the District Munsif Court, Thiruchengode.



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C.R.P.No.364 of 2023

For Petitioners : M/s. Rajaramani
For M/s. P.Neelavathi

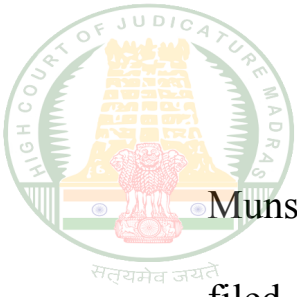
For Respondents : Mr. T.R.Rajaraman

ORDER

Challenging the order dated 11.11.2024 in IA.No.5 of 2024 in OS.No.198 of 2023 of the District Munsif, Thiruchengode, the plaintiffs are the petitioners before this Court. The short facts which gives raise to this petition are herein below set out.

2. The plaintiffs had filed the suit OS.No.198 of 2023 on the file of the District Munsif, Thiruchengode for an injunction and to declare title of the petitioner to the property.

3. The defendants have filed a written statement contending that the plaintiffs have suppressed an earlier suit filed by the husband of the 1st defendant and father of the 2nd defendant one Palanivel, against the plaintiffs herein in OS.No.736 of 2004 on the file of the District



C.R.P.No.364 of 2023

Munsif, Thiruchengode. The suit was dismissed and the said Palanivel filed AS.No.25 of 2009, on the file of the Sub Court, Thiruchengode, which was also dismissed.

4. As against the concurrent Judgement the defendants herein who had been impleaded as the appellants in AS.No.25 of 2009 had preferred SA.No.302 of 2012, on the file of this Court and the Second Appeal was allowed in and by which the suit O.S.No.736 of 2004 was decreed.

5. Pending the suit, the plaintiffs have filed IA.No.5 of 2024, for appointing Advocate Commissioner to note down physical features of the property in question. This application after contest was dismissed.

6. Challenging the same, the plaintiffs / petitioners are before this Court.

7. Heard the learned counsels on the either side.

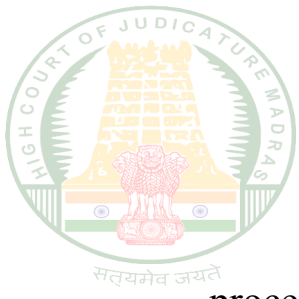


C.R.P.No.364 of 2023

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8. It is seen that pursuant to the Judgement in SA.No.302 of 2012, the 2nd defendant made an application to the Tahsildar to measure her property so as to fix the boundaries for putting up fencing around the property. This representation was not considered constraining the 2nd defendant to file W.P.No.11524 of 2023. This Court by order dated 17.04.2023 directed the Tahsildar to consider the representation and survey subject lands after giving due notice to the adjacent owners. It is also reported that the surveyor had measured the properties and demarcated the 2nd defendant's property as described in S.A.No.302 of 2012.

9. The learned Trial Judge has rejected the said application by stating that this is nothing but an attempt to gather evidence. The learned Trial Judge opined that the Advocate Commissioner cannot be appointed to verify as to whether fencing had been put up around the property.



C.R.P.No.364 of 2023

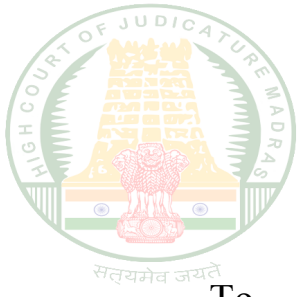
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10. The property in question is already the subject matter of the proceedings in S.A.No.302 of 2012. Pursuant to that a surveyor had been appointed and on the basis of the report, the property of the 2nd defendant had been demarcated and fencing put up. The petitioners have now taken out this application to note down the physical features and to identify whether fencing has been put up. As per the order in W.P.No.11524 of 2023, the surveyor has demarcated the property belonged to the 2nd defendant. The suit being one for declaration of title on the basis of the title documents, there is no necessity to note down the physical features and the existence of the fencing. The Trial Court has rightly dismissed the application.

11. In the result, the civil revision petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

03.03.2025

Index : Yes/No
Internet : Yes/No
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C.R.P.No.364 of 2023

To
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The District Munsif Court,
Thiruchengode.



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C.R.P.No.364 of 2025

P.T. ASHA, J,

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C.R.P.No. 364 of 2025

03.03.2025