



C.R..P.(PD)(MD).Nos.564 and 565 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(PD)(MD)Nos.564 and 565 of 2025

and

C.M.P(MD) No.3093 of 2025

C.R.P(MD) No.564 of 2025:

1. S.Petchiammal

2. S.Muthukumar

3. A.Dhanalakshmi

4. M.Sankar

... Petitioners/Petitioners/
Plaintiffs

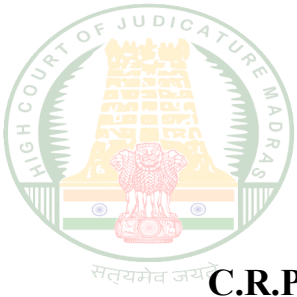
Vs.

M.Natarajan

... Respondent/
Respondent/
Defendant

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 10.12.2024 passed in I.A.No.5 of 2024 in O.S.No.155 of 2020 on the file of the I Additional District Munsif Court, Tirunelveli.

For Petitioners : Mr.S.A.Ganapathyraman



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C.R.P(MD) No.565 of 2025:

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1. S.Petchiammal

2. S.Muthukumar

3. A.Dhanalakshmi

4. M.Sankar

... Petitioners/Petitioners/
Plaintiffs

Vs.

M.Natarajan

... Respondent/
Respondent/
Defendant

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 10.12.2024 passed in I.A.No.6 of 2024 in O.S.No.155 of 2020 on the file of the I Additional District Munsif Court, Tirunelveli.

For Petitioners : Mr.S.A.Ganapathyraman

COMMON ORDER

The plaintiffs in O.S.No.155 of 2020 on the file of the I Additional District Munsif Court, Tirunelveli, are the revision petitioners herein.



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2. The said suit has been filed for the relief of permanent injunction restraining the defendant from interfering with the usage of the plaintiffs of the second schedule pathway as owners.

3. A perusal of the written statement reveals that the defendant has disputed the title of the plaintiffs over the second schedule pathway. When the suit is posted for arguments of the plaintiffs, the present applications in I.A.Nos. 5 and 6 of 2024 have been filed by the plaintiffs.

4. I.A.No.5 of 2024 has been filed for reopening and I.A.No.6 of 2024 has been filed for appointment of an Advocate Commissioner to note down the physical features of the suit schedule property. These two applications have been dismissed by the trial Court, by way of a common order. Challenging the same, the present Civil Revision Petitions have been filed.

5. According to the learned counsel appearing for the revision petitioners, the second schedule pathway is the private pathway which is common to the four plaintiffs and the defendant does not have any right over



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the second schedule pathway. On the other hand, the defendant is having other pathway to reach the main road, namely, Kalikama Nayanar Street. In order to establish the existence of the alternative pathway, the plaintiffs have filed the application for appointment of an Advocate Commissioner.

6. The averments in the plaint and the written statement would clearly reveal that the actual dispute between the parties is to whether the second schedule pathway is the private pathway, which is common to the four plaintiffs or it is a common pathway for the defendant also or not.

7. In such circumstances, it is for the plaintiffs to establish their exclusive title over the second schedule pathway through the documents, for which purpose appointment of an Advocate Commissioner is not necessary. Therefore, the trial Court has rightly rejected the applications.



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8. With the above said observations, these Civil Revision Petitions stand dismissed. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

24.02.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The I Additional District Munsif Court,
Tirunelveli.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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