



C.R..P.(PD)(MD).No.2174 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(PD)(MD)No.2174 of 2023

and

C.M.P(MD) No.10909 of 2023

Vadipatti Town Panchayat,
Through its Executive Officer,
Vadipatti,
Madurai.

... Petitioner/Third Party

(Cause title is accepted vide order of
this Court dated 07.07.2023 made in
C.M.P(MD) No.7940 of 2023 in
C.R.P(MD) S.R.No.22476 of 2023.

Vs.

1.A.Kamatchi @ Kamatchiya Pillai

2. A.Tamilselvan @ Bose

A.Avudai Ammal (Died)

Respondents represented through their
Power Agent V.Radhakrishnan

... Respondents1 and 2/Plaintiffs

3. R.Subramanian

4. R.Sethuraman

... Respondents 3 and 4/
Defendants

Notice to the respondents 3 and 4
is given up.



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PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, against the judgment and decree dated 29.10.2003, made in O.S.No.54 of 2003 on the file of the District Munsif, Madurai Taluk at Madurai, now District Munsif, Vadipatti.

For Petitioner : Mr.R.Suriyanarayanan

For R1 and R2 : Mr.K.K.Ravie

ORDER

A third party to O.S.No.54 of 2003, on the file of the District Munsif Court, Madurai Taluk, Madurai, is the revision petitioner herein.

2. The respondents 1 and 2 herein had filed the above said suit for the relief of permanent injunction restraining the two defendants namely, R.Subramanian and R.Sethuraman from putting up any further construction in the existing superstructure or in the vacant space. The plaintiffs have further prayed for recovery of possession from the said defendants and a direction to hand over the vacant possession of the suit schedule properties to the plaintiffs after removing the superstructure.



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3. A perusal of the plaint reveals that the plaintiffs claim title to the suit schedule property. It is the further contention of the plaintiffs that they have leased out the suit schedule property to the ancestors in title of the defendants as a vacant site, where they have put up construction. The defendants in the suit remained *ex parte* and an *ex parte* decree came to be passed on 29.10.2003. Based upon the said *ex parte* decree, E.P.No.27 of 2008 has been filed and the same is pending. At that stage, the present Civil Revision Petition has been filed by the Vadipatti Town Panchayat represented by the Executive Officer, seeking to set aside the judgment and decree made in the above said suit.

4. According to the learned counsel appearing for the revision petitioner, the property belongs to Vadipatti Town Panchayat and they have put up construction and rented out the said property to the third parties. The plaintiffs and the defendants have collusively filed the said suit and obtained an *ex parte* decree. It is the further contention of the revision petitioner that the defendants 1 and 2 in the suit are fictitious persons and the said suit has been filed only to disturb the possession of the Town Panchayat.



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5. Per contra, the learned counsel appearing for the respondents 1 and 2/ Plaintiffs had contended that the property of the Town Panchayat is located adjacent to the suit schedule property and Town Panchayat does not have any title or possession over the suit schedule properties. This Court is not inclined to go into the said factual dispute.

6. A perusal of the decree passed by the trial Court reveals that there is a decree for permanent injunction as against the defendants namely, R.Subramanian and R.Sethuraman from putting up any further constructions in the suit schedule property. The decree further reveals that the said defendants have to hand over the vacant possession to the plaintiffs. The present revision petitioner is a third party in the suit and therefore it is needless to point out that the said decree is not binding upon the Vadipatty Town Panchayat or the tenants of the Vadipatti Town Panchayat. The plaintiffs would be entitled to execute the decree only as against the defendants in the suit.



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7. With the above said clarifications, this Civil Revision Petition stands disposed of. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

10.02.2025

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

1. The District Munsif,
Madurai Taluk at Madurai,
Now District Munsif,
Vadipatti.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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