

C.R..P.(PD)(MD).No.1514 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P(PD)(MD)No.1514 of 2025

and

C.M.P.(MD)No.7616 of 2025

- 1.S.Shanthini
- 2.Satheesh
- 3.Satheeja Santhi
- 4.Jebasanthi

... Petitioners

Vs.

- 1.The Methukummal Village Panchayat,
Represented by its President,
Methukummal P.O., Killiyoor Taluk,
Kanyakumari District.
- 2.The Block Development Officer,
Munchirai at Panchayat Union,
Munchirai & P.O., Killiyoor Taluk,
Pudukkottai District.
- 3.The State of Tamil nadu,
Represented by its District Collector,
Kanyakumari, Nagercoil,
Agasteeswaram Taluk
Kanyakumari District.
- 4.The Assistant Divisional Engineer,
Highways, Construction and maintenance,
Kuzhithurai & P.O., Pin-629 163,
Kanyakumari District.

... Respondents



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PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the judgment and decree passed in C.M.A.No.2 of 2023 dated 07.03.2025 on the file of the Sub Court, Kuzhithurai reversing the order and decreetal order passed in I.A.No.2 of 2022 in O.S.No.117 of 2022 dated 23.01.2023 on the file of the Principal District Munsif Court, Kuzhithiruai.

For Petitioners : Mr.P.S.Ganesan

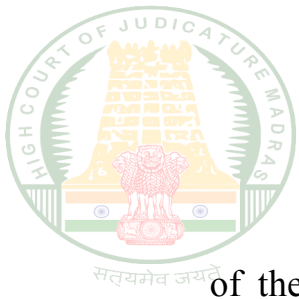
For Respondents : Mr.B.Saravanan

Additional Government Pleader

ORDER

This Civil Revision Petition is filed challenging the judgment and decree passed in C.M.A.No.2 of 2023 dated 07.03.2025 on the file of the Sub Court, Kuzhithurai reversing the order and decreetal order passed in I.A.No.2 of 2022 in O.S.No.117 of 2022 dated 23.01.2023 on the file of the Principal District Munsif Court, Kuzhithiruai.

2.The petitioners as plaintiffs filed a suit for permanent injunction in O.S.No.117 of 2022 on the file of the Principal District Munsif Court, Kuzhithurai restraining the respondents from constructing Anganwadi Centre or Children Park in Survey No.327, Kulappuram Village, in front of a portion

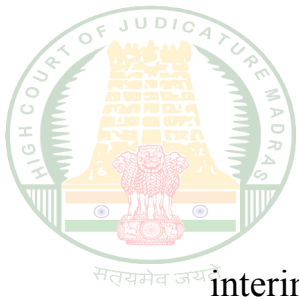


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of the petitioners 'A' Schedule property obstructing free usage of the said property and also free access of national highway. The trial Court granted an order of interim injunction in favour of the petitioners in I.A.No.2 of 2022. Challenging the same, the respondents herein filed an appeal before Sub Court, Kuzhithurai in C.M.A.No.2 of 2023. The Lower Appellate Court allowed the said appeal on 07.03.2025 by setting aside the interim order granted in favour of the petitioners. Challenging the same, the petitioners have preferred the present Civil Revision Petition.

3.The learned counsel appearing for the petitioners submits that the petitioners are the owners of 'A' Scheduled property. They are using 'B' scheduled property as a pathway to reach the national highway for time immemorial. The respondents are now trying to put up a construction in the 'B' Schedule property obstructing the petitioners from using the said property as pathway to reach the national highways, which is not permissible. Even as per the revenue records, the subject property is classified as 'Arasu Poromboke'. When the classification of the property itself is as Government Poromboke, constructing Anganwadi Centre in the said property is uncertain. The trial Court after considering all these aspects, has granted an order of



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interim injunction in favour of the petitioners. However, the lower Appellate Court reversed the said order.

4.The learned counsel for the petitioners further submits that if the Anganwadi Centre is allowed to be constructed, then there will be no purpose for the suit filed by the petitioners. Hence, he prays that till the disposal of the civil suit, status quo shall be maintained.

5.The learned counsel for the respondents submits that admittedly, 'B' schedule property is classified as Government promboke land. Hence, the Government is entitled to make use of the said property by all means. The Lower Appellate Court has rightly appreciated the said aspect and set aside the order of interim injunction granted by the trial Court. Hence, he prays for dismissal of this revision petition.

6.Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.



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7.The petitioners/plaintiffs own 'A' schedule property and they claim that 'B' schedule property is used as 'vandipathai' to reach Highways. Whereas, the respondents claim that the land in 'B' schedule is classified as Arasu Poromboke. However, as per the observation made by the trial Court, the said Government Poromboke land is used as 'vandipathai'. Whereas the Lower Appellate Court arrived at a conclusion that the land is classified as Government Poromboke.

8.In view of the above said confusion, if the order of the First Appellate Court is allowed to be continued, it will cause great prejudice to the petitioners/ plaintiffs. If the respondents construct the Anganwadi center in the property in question, then the suit itself will become infructuous. Accordingly, the judgment and decree passed by the Sub Court, Kuzhithurai in C.M.A.No.2 of 2023 is set aside. In order to maintain the balance of convenience between the petitioners and the respondents, this Court is inclined to issue a direction to the trial Court to dispose of the suit within a period of six months from the date of receipt of a copy of this order. Till such time, the respondents are directed to maintain status quo.



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9.This Civil Revision Petition is allowed on the above terms. No costs.

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Consequently, connected miscellaneous petition is closed.

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

- 1.The Sub Court, Kuzhithurai.
- 2.The Principal District Munsif Court,
Kuzhithiruai.
3. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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