

CRP(MD). No.1533 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 03/06/2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

**CRP(MD). No.1533 of 2025
and CMP(MD) No.7777 of 2025**

S.Kasidurai

... Petitioner

Vs

1.The District Collector
Thoothukudi District
Thoothukudi.

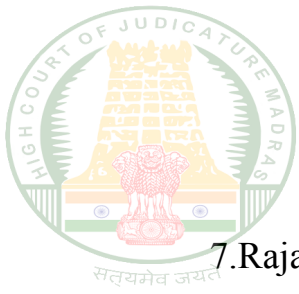
2.The Tahsildar
Eral Taluk, Eral,
Thoothukudi District.

3.The Divisional Engineer
Highways Department
Thoothukudi

4.The Executive Officer,
Alwarthirunagari Town Panchayat,
Alwarthirunagari

5.The Assistant Engineer,
TANGEDCO
Alwarthirunagari

6.Isaac Packiyaraj



CRP(MD). No.1533 of 2025

7.Rajan

... Respondents

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PRAYER :-Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 20.03.2025 in IA No.7/2025 in OS No.177/2021 on the file of the District Munsif Court, Srivaikundam.

For Petitioners : Mr.J.Antony Jesus

For Respondents : Mr.P.T.Thiraviam for R1 to R4

ORDER

The Civil Revision Petition is filed against the fair and decreetal order dated 20.03.2025 in IA No.7/2025 in OS No.177/2021 on the file of the Distribution Municipal Judge, Srivaikundam.

2. Since no adverse orders are going to be passed against the respondents 6 and 7, notice to R6 and R7 is dispensed with.

3. The petitioner is the plaintiff. He filed a suit in OS No.177/2021 against the respondents for removal of encroachment. During the pendency of the said suit, the 6th respondent filed IA No.7/2025 under Order VIII Rule 9 read with 151 of the Code of Civil Procedure for



CRP(MD), No.1533 of 2025

additional written statement thereby claiming counter claim for removal of the encroachment allegedly made by the petitioner/plaintiff in S.No. 981/1. The trial Court allowed the said interlocutory application. Challenging the same, the petitioner is before this Court.

4. The learned counsel for the petitioner would submit that the petitioner did not claim any title or recovery of possession and it is only a mandatory injunction suit for removal of encroachment allegedly made by the respondents 6 and 7 in S.No.975/17. Though additional written statement can be entertained under Order VIII Rule 9 of the Code, no additional claim can be entertained. Hence, the order passed by the trial Court in the said interlocutory application is per se illegal and prays for appropriate relief.

5. However, the learned Government Advocate appearing for the official respondents would submit that the land in S.No.975/17 belong to one Jebamalar Suganthi and S.No.975/16 belongs to Alwarthirunagari Panchayat.



CRP(MD). No.1533 of 2025

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6. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents 1 to 4. I have also perused the materials available on record.

7. The dispute is with regard to S.Nos.975/16, where, it is alleged by the petitioner/plaintiff that the 6th and 7th respondents have made encroachment and for removing the same, the petitioner has laid the suit. However, the grievance of the 6th respondent is that the petitioner has also encroached the property in S.No.981/1. It is the contention of the official respondents that the land in S.No.975/16 and 981/1 belongs to the Alwarthirunagari Panchayat and S.No.975/17 belong to one Jebamalar Suganthi and hence, both the grievance of the petitioner as well as the 6th respondent is that both the parties encroached the public property and it has to be adjudicated only by the trial Court and the trial Court has not allowed the counter claim made by the 6th respondent, rather, it has only taken the same as an additional written statement in terms of Order VIII Rule 9 of the Code, in which, if the petitioner has not encroached, no prejudice would be caused to him.



CRP(MD), No.1533 of 2025

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8. In fine, the civil revision petition is misconceived and the same is accordingly dismissed. However, the trial Court shall independently decide the suit, as per law, without being influenced by any of the observations made hereinabove. No costs. Consequently connected Miscellaneous Petition is closed.

03.06.2025

NCC : Yes/No

Index : Yes/No

RR

TO

1.The District Munsif Court, Srivaikundam.

2.VR Section

Madurai Bench of Madras High Court, Madurai.



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CRP(MD), No.1533 of 2025

M.DHANDAPANI,J

RR

**ORDER
IN
CRP(MD) (NPD) No.1533 of 2025**

Date : 03/06/2025