

C.R.P.(MD)No.2175 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P(PD)(MD)No.2175 of 2025

M.Boobalan

... Petitioner(s)

Vs.

1. Nallammal

2. Muthukumaran

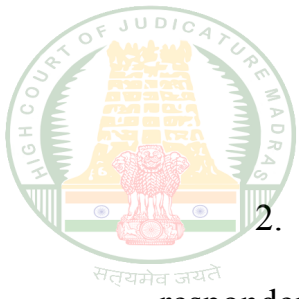
... Respondent(s)

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to allow the Civil Revision Petition and direct the learned Principal District Munsif Court, Kumbakonam to number the Unnumbered O.S.SR.No. 327 of 2025 on the file of Principal District Munsif Court, Kumbakonam and returning the plaint dated 01.07.2025.

For Petitioner : Mr.M.Karthick

ORDER

This Civil Revision Petition is filed seeking a direction to direct the learned Principal District Munsif Court, Kumbakonam to number the Unnumbered O.S.SR.No.327 of 2025 on the file of Principal District Munsif Court, Kumbakonam and returning the plaint dated 01.07.2025.



2. Since no adverse order is going to be passed as against the respondents, notice to them is dispensed with.

3. The petitioner is the son of the first defendant and brother of the second defendant. The suit schedule property stands in the name of the first defendant, the petitioner's mother, who purchased in the year 1979. Subsequently, the petitioner was employed abroad and used to send money to the defendants for the construction of a building on the said property. After returning to India, the petitioner occupied the suit scheduled property. However, his possession was disturbed by the first defendant/mother and second defendant/brother. Consequently, the petitioner filed a suit for declaration. However, the suit was returned on the ground that without a *prima facie* title, filing an injunction petition is contrary to Section 41(h) of the Specific Relief Act, 1963. Aggrieved by this, the present revision petition has been filed by the petitioner.

4. The learned counsel appearing for the petitioner would submit that even a trespasser is entitled to seek an injunction against the owner of the property, if he is settled possession. The first defendant is none other than the petitioner's mother and the other respondent is his brother. Both defendants are attempting to interfere with the petitioner's peaceful possession and enjoyment of the property. Consequently, the petitioner has filed injunction petition to



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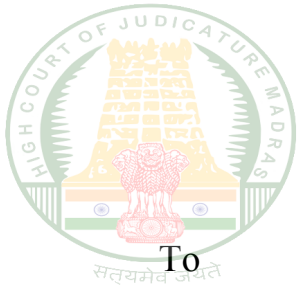
protect his possession. It is therefore, submitted that the petition is maintainable and return of the injunction petition on the ground of lack of *prima facie* title is not sustainable. Accordingly, he prays to allow the present revision petition.

5. The facts in the present case are not disputed. Admittedly, in the unnumbered plaint itself, the petitioner has acknowledged that the property is owned by the first defendant and that he does not possess absolute title to the said property. It is clearly stated that the property exclusively belongs to the first defendant. In the absence of *prima facie* title, the petitioner is not entitled to maintain a suit for injunction against the owner of the property and the possession cannot be decided without title. Therefore, the return order passed by the trial Court does not warrant any interference by this Court.

6. Accordingly, the civil revision petition stands dismissed. There shall be no order as to costs.

06.08.2025

Index : Yes/No
Internet : Yes / No
PKN



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To

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- 1.The Principal District Munsif Court, Kumbakonam.
- 2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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