



C.R.P.(PD)(MD) No. 2453 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	10.01.2025
Pronounced on	31.01.2025

CORAM

THE HON'BLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.R.P.(MD) No. 2453 of 2022 and
CMP(MD).No.12000 of 2022

1.Subramanian
2.Iyappan
3.Mookandi
petitioners rep. on behalf of the
Yadava Community People

Petitioners

Vs.

1.Vel Thevar
2.Saravanan
3.Velayutham
4.Murugan
respondents 1 to 4 for themselves
and on behalf of the Thevar Community
people Udayarpatti, Manimoorthiswaram Village

5.The State of Tamil Nadu
rrep. Through the District Collector,
District Collector Office,
Kokkirakkulam, tirunelveli.

6.The Commissioner,
Tirunelveli City Municipal Corporation Office,
S.N.High Road, Thirunelveli.



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7.The Assistant Commissioner,
Thatchanallur Zone,
Tirunelveli City Municipal Corporation Office,
Kalaingar Karunanithi Arangam,
Tirunelveli Junction.

.. Respondents 5 to 7

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to strike off the plaint in O.S.No.475 of 2022 on the file of the District Munsif Court, Tirunelveli.

For Petitioners : Mr. H.Arumugam

For 5th Respondent : Mr.B. Saravanan
Additional Government Pleader

For R1 to R4, 6 & 7 : No appearance

ORDER

This Civil Revision Petition has been filed to strike off the plaint in O.S.No.475 of 2022 on the file of the District Munsif Court, Tirunelveli.

2. According to the revision petitioners, the present suit is nothing but 5th round of litigation. In which members of the petitioners have already filed a suit in O.S.No.1278 of 1981 for declaration and injunction with regard to the suit property and also obtained a decree in their favour in the year 1989. The appeal filed by the defendants therein was also dismissed on 02.03.1990 and the Second Appeal in S.A.No.1823 of 1990



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preferred by the defendants was also dismissed on 11.03.2022.

Thereafter, the respondents 1 to 4 attempted to construct a building for administration office in the same property. Hence, the suit in O.S.No.475 of 2015, on the file of the Principal District Munsif Court, Tirunelveli was filed in the representative capacity against the respondents 5 and 6 and others for permanent injunction. The said suit was decreed on 01.08.2018. Against which no appeal was filed and therefore, the decree passed by the trial Court become final. Thereafter, the community people of the respondents 1 to 4 filed a suit in O.S.No.67 of 2020 on the file of the Principal Munsif Court, Tirunelveli for declaration that the decree passed in O.S.No.475 of 2015, dated 01.08.2018 as null and void. The said suit was dismissed on 16.08.2022. Again the 4th respondent by suppressing the previous decree filed a Writ Petition in W.P(MD).No. 9625 of 2022 before this Court as if there is an encroachment in the suit property without impleading the petitioners' community members and obtained an order of interim injunction. Now, the respondents 1 to 4 filed the present suit in O.S.No.475 of 2022 before the District Munsif Court, Thirunelveli for permanent injunction which is abuse of process of law. Hence, the revision petitioners were constrained to file the above revision petition to strike off the plaint in O.S.No.475 of 2022 before the District



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Munsif Court, Thirunelveli for permanent injunction.

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3. The learned counsel appearing for the revision petitioners would submit that the present suit is nothing but abuse of process of law and therefore, the same has to be prevented by this Court invoking the power under Article 227 of the Constitution of India and strike off the plaint.

4. Despite the notice to the respondents 1 to 4, 6 and 7 failed to appear. The learned Additional Government Pleader appearing for the 5th respondent did not raise any objections for allowing this Civil Revision Petition.

5. On perusal of the records it is seen that the community members of the petitioners have filed a suit in the representative capacity in O.S.No. 1278 of 1981 on the file of the Principal District Munsif Court, Tirunelveli for declaration and injunction in respect of the suit property and obtained a decree in their favour in the year 1989. Against which, the appeal was preferred by the defendants therein was also dismissed on 02.03.1990. Whereas the Second Appeal preferred by them was also dismissed on 11.03.2002. Since the respondents 1 to 4 attempted to



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construct the building for administration office within the same premises of Manthai situated in O.S.No.475 of 2015 was filed in the representative capacity of petitioners' community against the respondents 5 and 6 and others for permanent injunction, which was decreed on 01.08.2018. As there was no appeal against the decree, dated 01.08.2018, the said decree became final. Thereafter, the community people of respondents 1 to 4 filed a suit in O.S.No.67 of 2020 for declaration to declare that the decree dated 01.08.2018 passed in O.S.No.475 of 2015 as null and void and the same was dismissed on 16.08.2022. Again the 4th respondent filed the Writ Petition in W.P(MD).No.9625 of 2022 before this Court stating that there is an encroachment in the suit property impleading the petitioners' community members and obtained an order of injunction. Again the respondents 1 to 4 have filed the present suit in O.S.No.475 of 2022 before the learned District Munsif Court, Thirunelveli for permanent injunctions, which according to the revision petitioners is abuse of process of law. Hence, the revision petitioners have filed the above revision to strike off the plaint in O.S.No.475 of 2022 pending before the District Munsif Court, Thirunelveli. It is clearly seen that the suit has been filed by creating the illusory cause of action as if the petitioners' community members are attempting to put up construction in the suit property. Even



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the illusory cause of action does not disclose clear cause of action as to when and by whom the alleged illusory attempt was made.

6. It is pertinent to note that the decree of declaration obtained by the petitioners in O.S.No.1278 of 1991 and in all the proceedings, the community members of the petitioner have categorically pleaded that they have no intention to put up any permanent construction, which is also observed and endorsed by the Civil Court. Even in the Writ Petition and as well as in the previous suits, filed by the respondents 1 to 4 community members, the petitioners have categorically pleaded in the writ petition that they have no idea to put up any construction. When such is being a position, again making an illusory cause of action as if they are attempting to put up construction is highly unjustifiable, using the process of law as mockery of justice.

7. Even in the decree passed in the suit in O.S.No.1278 of 1981 itself it is made clear that the land should be utilized only for the purpose of keeping the cattle. As such, if any construction is put up on the property, it amounts to contempt or violation of the decree granted in favour of the petitioners' community. Therefore, the respondents 1 to 4



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can very well invoke the jurisdiction of contempt and as well as violation of the decree. They need not to file a fresh suit. But to harass the petitioners' community people, this suit was filed. The fact remains that they are violating the decree of injunction and an order passed in E.P on 06.10.2020.

8. By way of clever drafting, the respondents / plaintiffs are attempting to file a fictitious suit on the basis of illusory cause of action and the present suit is nothing but abuse of process of Court as held by the Hon'ble Supreme Court reported in **2017(3) SCC 174 in the case of Madanuri Sri Rama Chandra Murthy vs Syed Jal.**

9. In the result, this Civil Revision Petition is allowed and the suit in O.S.No.475 of 2022 pending on the file of the District Munsif Court, Tirunelveli is hereby dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

31.01.2025

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order/Non-Speaking Order
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The District Munsiff, Pattukkottai.



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K.GOVINDARAJAN THILAKAVADI, J.

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Pre-Delivery Order made in
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