

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.03.2023**

CORAM

**THE HON'BLE MR.JUSTICE C.SARAVANAN**

**C.R.P(MD)No.794 of 2023**  
**and**  
**C.M.P(MD) No.3648 of 2023**

1.Vairamuthu

2.Muthupandi

...Petitioners/Respondents/  
Defendants

Vs.

Vanadevi

... Respondent/Petitioner/  
Plaintiff

**PRAYER:** Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order dated 03.02.2023 passed in I.A No.01 of 2022 in O.S No.179 of 2019 on the file of the Additional District Munsif Court, Thirumangalam.

For Petitioner : Mr.N.Vallinayagam

For Respondent : No Appearance

**ORDER**

The petitioners are the defendants in O.S.No.179 of 2019 on the file of the Additional District Munsif Court, Thirumangalam. The suit

has been filed by the first respondent in the year 2019 for bare injunction to restrain the petitioners from interfering with the peaceful possession of the suit schedule property.

2. The second defendant in O.S.No.179 of 2019 had filed a written statement, wherein, it has been stated that the suit schedule properties were sold by respondent's husband, namely, Mayakrishnan, by sale deed, dated 08.05.2014 in Document No.2369 of 2014 and passage by another Document No.2370 of 2014. Pursuant to the above, the respondent/plaintiff in O.S.No.179 of 2019 filed I.A.No.1 of 2022 under Order 6 Rule 17 of C.P.C to amend the plaint to include Paragraph 6 (A) and for certain reliefs to declare sale deed in Document Nos.2369 of 2014 and 2131 of 2019 in the name of the petitioners herein not to bind the respondent. The Trial Court modified the application with the following observations:

”7. எனவே மனுதாரர்/வாதியின் வழக்கில் மனுதாரர்/வாதியால் தனது அபிவிஷயம் சொல்லப்பட்டுள்ள கிரைய பத்திரங்கள் சம்பந்தப்பட்ட சங்கதிகள் மனுதாரர்/வாதிக்கு இந்த வழக்கு தாக்கல் செய்த பிறகு தெரியவந்ததாக அறியமுடிவதால் மனுதாரர்/வாதியால் இந்த வழக்கு தாக்கல் செய்த காலத்திலேயே மேற்கண்ட கிரைய பத்திரங்கள் சம்பந்தமாக பரிகாரங்கள் கோரவில்லை என்று அறியமுடிவதால் மனுதாரர்/வாதியின் மனுவை அனுமதிக்கலாம் என்று இந்த நீதிமன்றம் முடிவிற்கு வருகிறது.

8.மற்றபடி மனுதாரர்/வாதியின் மனுவினை  
அனுமதிப்பதால் மனுதாரர்/வாதியின் வழக்கில் புதிய  
வழக்குமூலம் எதுவும் எழுவதற்கான வாய்ப்பு  
எதுவும் இல்லை என்று இந்த நீதிமன்றம் முடிவிற்கு  
வருகிறது.

9.மேலே விவரிக்கப்பட்டுள்ள சங்கதிகளின்  
அடிப்படையில் மனுதாரர் மனுவினை அனுமதிப்பது  
நீதிக்குகந்ததாக இருக்கும் என இந்நீதிமன்றம் முடிவு  
காண்கிறது.

10.முடிவாக மனுதாரர் மனுவில் கண்ட விபரப்படி  
பிராதில் திருத்தம் செய்ய அனுமதி  
வழங்கி இந்நீதிமன்றத்தால் உத்தரவிடப்படுகிறது.

11.செலவு தொகை இல்லை.”

3.The petitioner is aggrieved by the fair and decreetal order passed by the trial Court on 03.02.2023 in I.A.No.1 of 2022 in allowing the application filed for amendment of the plaint. The petitioners herein appears to be subsequent purchaser of the land from the respondent.

4. The learned counsel for the petitioners relied on the following decisions of the Court to state that the application filed for amending the plaint by substituting the prayer by inviting the scope of the relief has not have been allowed inasmuch as amendment infringes on the rights confer under the Limitation Act.

(a) P.B.Ramjee and others Vs P.B.Lakshmanaswamy Naidu and others reported in 1996 (1) CTC 661

(b)Shiv Gopal Sah @ Shiv Gopal Sahu Vs Sita Ram Saraugi and others reported in (2007 4 MLJ 378 (SC)

(c) M.D.Pasupathy Lakshmanan Vs Padmavathy and others reported in 2021 5 L.W. 913

(d) Asian Hotels (North) Limited Vs Alok Kumar Lodha and others reported in 2022 Livelaw (SC) 585.

5. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondent.

6. The respondent herein has filed a suit for bare injunction originally and has also filed an application for amending the averments in the plaint and also filed the suit sought for amendment of the relief from bare injunction to declaration. The Court has held that the plaintiff has to take steps to amend the plaint for relief of declaration. The application for amending the cause title have been filed just after the written statement was filed by the second petitioner.

7. Therefore, in my view, order passed by the trial Court does not

call for any interference. However, issue relating to the limitation can be canvassed and it is open for the petitioners to file appropriate application to direct the trial Court to frame preliminary issue as to whether the prayer for declaration can be entertained in the light of the limitation.

8. In my view, the civil revision petition filed by the petitioners questioning the order passed by the trial Court is misconceived and without merits and liable to be dismissed. Accordingly, the present Civil Revision Petition stands dismissed with the above observations. No costs.

**24.03.2023**

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

1.The Additional District Munsif Court,  
Thirumangalam.

2.The Section Officer  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.

*C.R.P(MD)No.794 of 2023*

**C.SARAVANAN,J.**

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