

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.12.2016

CORAM:

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM

CRPPD.No.652 of 2014
and M.P.No.1 of 2014

1.Natarajan
2.N.Vadivel

.. Petitioners

Vs.

Shanmugam

..Respondent

This Civil Revision Petition filed under Article 227 of the constitution of India to set aside the fair and decretal order dated 11.11.2013 passed by the Additional District Munsif Court, Tiruchengode in I.A.No.798 of 2013 in O.S.No.182 of 2008.

For petitioners : Mr.N.Manoharan

For Respondent : Mr.I.C.Vasudevan

ORDER

This revision challenges the order of the learned Additional District Munsif, Tiruchengode.

2. The petitioners/plaintiffs have filed O.S.No.182 of 2014 on the file of the Additional District Munsif Court, Tiruchengode, seeking for declaration and permanent injunction. The respondent/defendant has filed I.A.No.798 of 2013 in O.S.No.182 of 2008 seeking for amendment of pleadings in the plaint.

3. The learned counsel appearing for the petitioner has submitted that the suit is for permanent injunction and the plaintiffs are the petitioners before this Court. The petitioners filed an application seeking amendment of pleadings in the plaint and the same was rejected by the trial court on the ground that it was filed after the prescribed time limit of three years. The Trial court found that the suit was filed in the year 2008 and the petition seeking amendment is filed in the year 2013. Therefore, it is hit by limitation and accordingly, the petitioner filed this revision for amendment of pleadings.

4. The learned counsel for the petitioner would further contend that the trial court has committed an error in prescribing the period of limitation and the period of limitation of three years are not applicable for seeking amendment of prayer and shall be filed at any time during the pendency of the

suit and before the commencement of trial. Such being the proviso under Order VI Rule XVII of C.P.C., the findings of the trial court that the petition is not maintainable. Since, it was filed after three years cannot be accepted and the same is in violation of Order VI Rule XVII of C.P.C. Further the trial has not been commenced.

5. Considering the facts and circumstances of this case, this Court is inclined to consider the grounds raised on the side of the revision petitioner and accordingly, the order passed by the Additional District Munsif Court, Tiruchengode made in I.A.No.798 of 2013 dated 11.11.2013 is hereby set aside and the Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

09.12.2016

kkd

Index : Yes/No
Internet : Yes/No

To

The Additional District Munsif Court,

Tiruchengode.

S.M.SUBRAMANIAM,J

kkd

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