

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN

C.R.P (PD) No.373 of 2016

&

C.M.P.No.1960 of 2016

Jeyakaran

...Petitioner

VS.

1.T.Kasikani
2.Murugesan
3.Muthu
4.Kanniah
5.R.M.G.Enterprises
No.2, Thandavamoorthy Nagar
Valasaravakkam
Ambattur Taluk

.. Respondents

Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 05.01.2015 passed by the District Munsif-cum-Judicial Magistrate, Sriperumbudur, Kancheepuram District in I.A.No.1662 of 2014 in O.S.No.296 of 2008.

For Petitioner : Mr.P.Rathanavel

ORDER

This Civil Revision Petition is directed against the order dated 05.01.2015 in I.A.No.1662 of 2014 in O.S.No.296 of 2008 whereby and

whereunder the learned District Munsif allowed the application filed by the first respondent for amendment of the plaint.

2. The first respondent initially filed a suit for injunction. The petitioner filed a written statement and contested the claim. The petitioner has taken up a claim with regard to the ownership of the property in question. The first respondent, therefore, filed an application for amendment to incorporate a prayer for declaration. The said application was allowed notwithstanding the objection raised by the respondent. Feeling aggrieved, the petitioner is before this Court.

3. Learned counsel appearing for the petitioner submitted that due diligence was not shown by the first respondent and as such, the learned trial Judge was not correct in allowing the application for amendment.

4. The suit in O.S.No.296 of 2008 was initially filed by the first respondent for injunction. The petitioner, in his capacity as fourth defendant in the suit, has taken a substantial contention that he is in possession and enjoyment of the suit property. It was only thereafter, the first respondent filed the application for amendment.

5. It is true that the affidavit is not happily worded. The learned trial Judge was of the view that the first respondent should be permitted to incorporate the amendment in view of the stand taken by the petitioner.

6. The order is challenged primarily on the ground of due diligence. Even the petitioner is guilty of laches. The order was pronounced on 05.01.2015. The certified copy of the order was delivered to the petitioner on 22.04.2015. However, the Civil Revision Petition was filed only on 18.01.2016. The petitioner is complaining that the first respondent is determined to prolong the matter. The course of conduct adopted by the petitioner shows that he is equally interested to drag on the matter. In any case, there is no merit in the petition.

In upshot, I dismiss the Civil Revision Petition. No costs. Consequently, the connected miscellaneous petition is closed.

09.09.2016

gpa

To

The District Munsif-cum-Judicial Magistrate,
Sriperumbudur, Kancheepuram District

K.K.SASIDHARAN,J.

gpa

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