

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2016

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) No.436 of 2016

&

C.M.P.No.2255 of 2016

Mangalanathan

... Petitioner

VS.

1.N.G.Finance & Investments
Pvt Ltd.,
Rep by its Director
Dr.S.K.Gupta
No.26-27, Morison Street
Alandur
Chennai – 600 016

P.Kudandarami Reddy

2.K.Dwarakanath Reddy

3.P.Ramachandra Reddy

4.P.Padmjamma

5.P.Amarnath Reddy

6.P.Vimalamma

7.B.Lalini

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 21.12.2015 made in I.A.No.14889 of 2015 in O.S.No.2660 of 2013 on the file of VI Assistant City Civil Court, Chennai.

For Petitioner : Mr.M.Venkateseshan

ORDER

The plaintiff in the original suit, who filed a suit for declaration of title and permanent injunction, came forward with an interlocutory application for amendment of the plaint to include a prayer for recovery of possession of the suit property from the defendant on the premise that pending suit, the defendant trespassed into the property and dispossessed the plaintiff.

2. Suppose the plaintiff was content with a prayer for such an amendment seeking permission to include the prayer for recovery of possession alone, there would not be any impediment for him. On the other hand, along with the prayer seeking recovery of possession, the plaintiff chose to seek permission to include a prayer for declaring a sale deed of the year 1969 relied on by the defendant to be null and void. The same would show lack of bonafide on the part of the plaintiff in filing a suit based on his alleged title and then try to get the plaint amended to include a prayer, which could not have been made in the original suit itself.

3. When the said aspect was pointed to the learned counsel for the petitioner, learned counsel made a request to this Court to permit the petitioner to withdraw I.A.No.14889 of 2015 in O.S.No.2660 of 2015 filed on the file of the trial Court with liberty to file a fresh petition for amendment seeking recovery of possession alone based on his alleged dispossession pending disposal of the suit.

4. Considering the facts and circumstances of the case, this Court is of the view that the petitioner is justified in making such a request. Hence, the dismissal of the interlocutory application I.A.No.14889 of 2015 by the trial Court is converted into a dismissal of the same as withdrawn with liberty to file a fresh petition for amendment to include a prayer for recovery of possession, based on the alleged dispossession pending suit alone. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

15.02.2016

Index: Yes/No
Internet: yes/No
gpa

To

VI Assistant City Civil Court
Chennai

P.R.SHIVAKUMAR.J.,

gpa

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