



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CRP(PD) (MD) .Nos.330 to 332 of 2016 and
CMP(MD) .No.1438 of 2016 in CRP(MD) .No.330 of 2016

K. Veeraiah : Petitioner in all CRPs

Vs.

K. Karuppiah : Respondent in all CRPs

Civil Revision Petitions are filed under Article 227 of the constitution of India against the fair and decreetal order made in I.A.Nos.40 of 2014, 182 of 2015 and 469 of 2013 respectively in O.S.No.194 of 2012 dated 03.04.2014, 28.08.2015 and 09.01.2014 respectively on the file of the Principal District Munsif Cum Judicial Magistrate Court, Karaikudi.

For Petitioner : Mr. H. Arumugam in all CRPs.

C O M M O N O R D E R

The Civil Revision Petitions are filed under Article 227 of the constitution of India against the fair and decreetal order made in I.A.No.40 of 2014, I.A.No.182 of 2015 and I.A.No.469 of 2013 respectively in O.S.No.194 of 2012, dated 03.04.2014, 28.08.2015 and 09.01.2014 respectively on the file of the Principal District Munsif Cum Judicial Magistrate Court, Karaikudi.

2. The revision petitioner filed O.S.No.194 of 2012, on the file of the Principal District Munsif Cum Judicial Magistrate, Karaikudi for declaration and recovery of possession. The respondent denied the claim of the petitioner. Thereafter, the petitioner has filed I.A.No.469 of 2013 for amendment of the plaint and the said application was dismissed on 09.01.2014. In such circumstances, the petitioner filed I.A.No.40 of 2014 to withdraw the suit with a liberty to file a fresh suit on the same cause of action and the same has been dismissed on 03.04.2014. Subsequently, the petitioner filed I.A.No.182 of 2015 for amendment of the plaint and the same has also been dismissed on 28.08.2015. Against these three orders, the petitioner has filed these revisions.



3. The learned counsel appearing for the petitioner contended that the learned Judge failed to see that the amendment sought for by the petitioner is before trial commence and therefore, the amendment application ought to have been allowed. The petitioner purchased the entire property by the sale deed dated 25.04.1981. The respondent who is the brother of the of the petitioner was permitted to reside in the tiled house put up by the petitioner. Taking advantage of the above, the respondent claimed ownership of the Schedule "B" property. Amendment is sought for in order to avoid multiplicity proceedings. The learned Judge erred in holding that the amendment sought for would change the character and nature of the suit. The learned Judge failed to see that no new cause of action has been introduced. By amendment the Survey number, after sub division is sought to be substituted in the place of original survey number. The learned Judge failed to see that the respondent is not having any document to show his title, on the other hand the petitioner is having title. The petitioner should not suffer for not properly drafting the pleadings. He further submitted that the petitioner has given sufficient reasons for withdrawing the suit and file a fresh suit for same cause of action and prayed for allowing these Civil Revision Petitions.

4. I have heard the learned counsel appearing for the petitioner and perused the materials available on record.

5. From the materials available on record it is seen that the petitioner has initiated a suit in O.S.No.194 of 2012 for declaration and recovery of possession giving particulars of the property and the reasons for claiming the said relief. Subsequently, the petitioner filed an application for amendment that due to his ill health he has not furnished correct particulars to his advocate and therefore, he sought for amendment in I.A.No.469 of 2013. The learned Judge considering the materials on record came to the conclusion that the amendment sought for by the petitioner is introducing new cause of action and tried to change the nature of suit and therefore, dismissed the application filed by the petitioner for amendment. After said dismissal, the petitioner filed I.A.No.40 of 2014 to withdraw the suit with a liberty to file a fresh ~~service court case~~ cause of action. The learned Judge considering the averments made in the affidavit dismissed the said Interlocutory



Application holding that the said application is filed only due to the dismissal of I.A.No.469 of 2013 and there is no reason has been specified by the the petitioner in support of I.A.No.40 of 2014. From the affidavit filed by petitioner in support of I.A.No.40 of 2014 it is seen that the petitioner has not given sufficient reason for permission to withdraw the suit and file a fresh suit on the same cause of action. Subsequent, to the dismissal of the said application, the petitioner filed I.A.No.182 of 2015 for amendment of the plaint and the learned Judge dismissed the same on 28.08.2015, on the ground that the earlier petition filed by the petitioner for amendment is dismissed.

6. The learned Trial Judge has considered all the materials available on record and arguments of the learned counsels on either side and passed an order in proper perspective by giving valid reasons. Therefore, there is no reason warranting interference by this Court.

7. In the result the Civil Revision Petitions are dismissed confirming the impugned order of the learned Principal District Munsif Cum Judicial Magistrate, Karaikudi passed in I.A.No.40 of 2014, I.A.No.182 of 2015 and I.A.No.469 of 2013 respectively in O.S.No.194 of 2012, dated 03.04.2014, 28.08.2015 and 09.01.2014 respectively. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (AE)

/True copy/

Sub Assistant Registrar

To
The Principal District Munsif Cum Judicial Magistrate Court,
Karaikudi.
+1 CC to Mr.H.ARUMUGAM, Advocate, SR No.7506

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