



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2016

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CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CRP(PD) (MD).No.335 of 2016 and
CMP(MD).No.1445 of 2016

N. Krishnadhas

: Petitioner

Vs.

1. Chelladurai
2. M. Jeyakumar
3. Thangalakshmi

: Respondents

Civil Revision Petition is filed under Article 227 of the constitution of India against the fair and decreetal order passed in I.A.No.507 of 2013 in O.S.No.94 of 2007 on the file of the Sub Court, Padmanabhapuram, dated 02.12.2015.

For Petitioner

:

Mr. P. Prabhakaran

O R D E R

This Civil Revision Petition is filed against the fair and decreetal order passed in I.A.No.507 of 2013 in O.S.No.94 of 2007 on the file of the Sub Court, Padmanabhapuram, dated 02.12.2015.

2. The revision petitioner is the plaintiff. He has filed a suit in O.S.No.94 of 2007 on the file of the Sub Court, Padmanabhapuram, for declaration of title. Thereafter, he has filed I.A.No.507 of 2013 for amendment to include a prayer that settlement deed dated 22.11.2004 executed by the first respondent in favour of third respondent is null and void. The respondents filed counter affidavit and resisted the same, on the ground that the relief sought for is barred by limitation. As per Article 58 of the Schedule Part III of the Limitation Act, it is only for three years from the date of knowledge or on the date of the document. The petitioner had knowledge of settlement deed dated 22.11.2004, at the time of filing of suit itself. The application was filed only in the year 2013, after 9 years of filing of suit. Moreover, the plaintiff already amended the plaint and the evidence on the side of the plaintiff is already closed. <https://hcservices.ecourts.gov.in/hcservices/securecourt/> Only the plaintiff had filed the above said application.



3. The learned Judge considered all the materials available on record and the Judgments relied on by the counsels on either side, dismissed the application filed by the petitioner. Against that the petitioner has come out with the present revision.

4. The learned counsel appearing for the revision petitioner contended that the learned Judge failed to see that the amendment can be ordered at any stage of the suit. Further, the petitioner has given valid reasons. BY amendment sought for, the nature of the suit would not be changed. If amendment is not ordered, that will amount to mis-carriage of justice. The learned counsel for the petitioner relied on the judgment of the Hon'ble Apex Court reported in **2012(5) CTC 803 (Abdul Rehman and another Vs. Mohd. Ruldu)**. The relevant para 13 reads as follows:-

13... we are of the view that the proposed amendment to include a relief of declaration of title, in addition to the permanent injunction, is to protect their interest and not to change the basic nature of the suit as alleged."

5. I have heard the leaned counsel appearing for the petitioner and perused the materials available on record.

6. From the materials available on record it is seen that the petitioner had knowledge of settlement deed, dated 22.11.2004, executed by the first respondent in favour of third respondent and the said fact has been mentioned in para 4 of the plaint, by the petitioner. The relief sought for by the petitioner is barred by limitation, as per the Article 58 of the Schedule Part III of the Limitation Act, 1963 and as per the ratio in the judgment relied on by the learned counsel for the respondent before the court below. The learned trial Judge has considered and applied the same and passed an order in proper perspective and has given valid reason for dismissal. There is no reason warranting interference by this court.

7. In view of the above, the Civil revision petition is dismissed confirming the impugned order of the learned Subordinate Judge, Padmanabhapuram passed in I.A.No.507 of 2013 in O.S.No.94 of 2007, dated 02.12.2015. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar



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The Subordinate Judge, Padmanabhapuram.

+1cc to Mr.P. Prabhakaran, Advocate Sr.No. 7869

Trp

AA/NGM-SS/03.03.2016/3p-3c

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