



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.04.2016

CORAM:

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

C.R.P.PD(MD)No.708 of 2016

and

C.M.P. (MD)No.3298 of 2016

Prem Nirmala

... Petitioner / 7th respondent
/ 7th defendant

Vs.

1.Careth Benham Sharon Jefferson
2.Julie Jefferson
3.Ramachandran
4.Subbulakshmi
5.Asuvathy
6.Paulin
7.Perumal
8.Thirumeni

... Respondents 1 & 2 / Petitioner /
/ Plaintiffs

PRAYER: The Civil Revision petition has been filed under Article 227 of the Constitution of India, to set aside the fair and order dated 19.06.2015 passed in I.A.No.235 of 2015 in O.S.No.34 of 2014 on the file of the Additional District Munsif Court, Nanguneri.

For Petitioner : Mr.S.Rajeshkanna

ORDER

The Civil Revision Petition is filed to set aside the order dated 19.06.2015 in I.A.No.235 of 2015 in O.S.No.34 of 2014 passed by the Additional District Munsif Court, Nanguneri.

2.The respondents 1 and 2 have filed a suit in O.S.No.34 of 2014 before the Additional District Munsif Court, Nanguneri, for injunction against the petitioner and other defendants in respect of the suit property.

3.In the plaint in paragraph Nos.11 and 14 the respondents 1 and 2 / plaintiffs mentioned the date as 03.04.2014 instead of 03.03.2014. According to the respondents 1 and 2 / plaintiffs, it is a typographical error. Therefore, a petition in I.A.No.235 of 2015 has been filed to amend the date as 03.03.2014 instead of 03.04.2014.

<https://hcservices.ecourts.gov.in/hcservices/>

4.The petitioner / 7th defendant filed a counter affidavit and contended that only after due verification, the 1st respondent



signed in proof affidavit and during cross examination, he has also admitted the fact that after due verification only, he signed in the plaint and also in the proof affidavit and therefore, he prayed for the dismissal of application.

5. The learned Judge considering all the materials on record and allowed the application. Against the said order present Civil Revision Petition is filed.

6. The learned counsel for the petitioner contended that the 1st respondent admitted that only after due verification, he signed in the plaint and the amendment is only after commencement of trial. The learned Judge without property consideration of materials on record allowed the application. The learned Judge failed to consider the proviso to Order 6 Rule 17 of CPC that amendment cannot be ordered after commencement of Trial.

7. Heard the learned counsel for the petitioner and perused the materials on record.

8. The 1st respondent / plaintiff has sought for correction in paragraph Nos. 11 and 14 in the plaint. According to the respondents 1 and 2 / plaintiffs, it is a typographical error. The learned Judge after considering the judgment relied on by the 1st respondent allowed the application to carry out the said amendment in the plaint. The contention of the learned counsel for the petitioner that the learned Judge failed to consider the proviso to Order 6 Rule 17 of CPC properly and ought to have dismissed the application as no amendment can be allowed after commencement of Trial.

9. Order 6 Rule 17 of C.P.C. reads as follows:

"17. Amendment of pleadings— The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties."

10. A reading of the said Rule reveals that there is no provision for the court to order amendment after commencement of Trial. The Court can allow the amendment even after commencement of trial, if the Court is satisfied that even after due diligence the parties could not file petition for amendment before the commencement of trial. The court has power to order amendment at any stage of the suit.



11. In the present case, as already pointed out the suit was filed on 18.03.2014 and the date mentioned in the plaint as 03.04.2014 clearly a typographical error. The learned Judge considering these facts allowed the application by relying on the judgments and gave cogent and valid reasons.

12. Hence, there is no error or infirmity warranting interference in the order passed in I.A.No.235 of 2015 in O.S.No.34 of 2014 by the Additional District Munsif Court, Nanguneri. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected M.P. is closed.

Sd/-

Assistant Registrar(AE)

/True copy/

Sub Assistant Registrar

To

The Additional District Munsif Court, Nanguneri.

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