

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2017

CORAM

THE HON'BLE MR.JUSTICE M.DURAI SWAMY

**C.R.P.(PD) No.1030 of 2017
and C.M.P.No.4979 of 2017**

M.Shanmugavelusamy

..Petitioner

-VS-

1.A.Rudrapathi
2.N.S.Ganapathy

..Respondents

Petition filed under Article 227 of the Constitution of India,
praying against the fair and decretal order dated 25.11.2016 passed in
I.A.No.557 of 2016 in O.S.No.131 of 2010 on the file of Subordinate
Judge, Udumalpet.

For Petitioner : Mr.N.Umapathi

For Respondents : Mr.P.Mohanraj

* * * * *

ORDER

Challenging the fair and decretal order passed in I.A.No.557 of 2016 in O.S.No.131 of 2010 on the file of Subordinate Court, Udumalpet, the plaintiff has filed the above Civil Revision Petition.

2.The plaintiff filed the suit in O.S.No.131 of 2010 for declaration and permanent injunction. The defendants filed the written statement and are contesting the suit. After completion of the trial and when the lower Court reserved the suit for judgment, the plaintiff took up an application in I.A.No.557 of 2016 to re-open the case for the purpose of impleading some third parties. In the affidavit filed in support of the application, the plaintiff has stated that he has not impleaded the other legal heirs of the deceased Indrani and for the purpose of impleading the other legal heirs, the suit should be re-opened.

3.The defendants filed their counter disputing the averments stated in the affidavit filed in support of the application. Further, the defendants have specifically stated that the suit was filed in the year 2010 and the plaintiff has successfully dragged on the proceedings and

caused maximum damage to the suit property by quarrying over the suit property. Further, the defendants have stated that the plaintiff has also successfully prevented the defendants from enjoying the suit property and continued to quarry the suit property.

4.The trial Court, taking into consideration the case of both the parties, dismissed the application finding that if the third parties are impleaded, the relief in the suit would be barred by the Limitation Act.

5.On a reading of the affidavit filed in support of the application, it is also clear that the plaintiff has not given any reason for not filing the application for impleading the third parties at the earliest point of time. As stated in the counter, the suit is pending from the year 2010 and after a lapse of six (6) years, the present application has been filed by the plaintiff to re-open the case for the purpose of impleading some third parties.

6.It is also pertinent to note that with the available pleadings, the parties entered into the box, let in oral and documentary evidences and also argued the matter before the trial Court and only after that, the trial Court had reserved the matter for judgment. At that stage,

the present application has been filed by the plaintiff for re-opening the case, which was rightly dismissed by the trial Court.

7.In these circumstances, I do not find any error or irregularity in the order passed by the trial Court and the Civil Revision Petition is devoid of merits and is, accordingly, dismissed. No costs. Consequently, C.M.P.No.4979 of 2017 is also dismissed.

21.03.2017

Speaking/Non-speaking order

Index : No
Internet : Yes

**Note: Issue order copy by
23.03.2017.**

sra

To

1.The Subordinate Judge, Udumalpet.

M.Duraiswamy, J.

(sra)

C.R.P.(PD) No.1030 of 2017

21.03.2017