

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2017

CORAM

THE HONOURABLE MR.JUSTICE M. DURAISWAMY

C.R.P.(PD).No.1141 of 2017
and C.M.P.No.5470 of 2017

Rajendran

... Petitioner

Vs.

1.Rajendran
2.Arjunan
Kannan (Late)
3.Govindan
4.Ayyanar
5.Minor Nithish Kumar
(rep by his Father Dakshanamurthy)
6.Dharmalingam
7.Arul
8.Murugan
9.Saroja
10.Saravanan

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decreetal order dated 01.03.2016 passed in I.A.No.1262 of 2016 in O.S.No.77 of 2009 on the file of the Principal District Munsif, Ulundurpet.

For Petitioner : Mrs.R.Poornima

ORDER

Challenging the fair and final order passed in I.A.No.1262 of 2016 in O.S.No.77 of 2009 on the file of the Principal District Munsif, Ulundurpet, the plaintiff has filed the above Civil Revision Petition.

2.The plaintiff filed the suit in O.S.No.77 of 2009 for declaration and permanent injunction.

3.The suit was filed in respect of an extent of 20 cents. The defendants filed their written statement disputing the averments stated in the plaint and they have specifically stated that they are entitled to the entire extent of 29 cents and the plaintiff is not entitled to any extent of the property mentioned in the suit Schedule.

4.Based on the available pleadings, the trial Court framed issues and took up the matter for trial. After the completion of evidence on the side of the plaintiff, the plaintiff took out an application in I.A.No.1262 of 2016 under Order 6 Rule 17 of the Code of Civil Procedure to amend the plaint by amending

the extent of the property from 20 cents to 29 cents. The application filed by the plaintiff was opposed by the defendants stating that the application has been filed at a belated stage, that too, after the completion of the oral evidence on the side of the plaintiff.

5. When the defendants have specifically stated that the plaintiff has no right over the suit property and that the defendants are entitled to the entire extent of 29 cents in the suit Survey Number, if the plaintiff is really aggrieved, he should have filed the application immediately after the filing of the written statement, but for the reasons best known to him, he chose to file the application only after the completion of the oral evidence on his side.

6. Since the plaintiff has not given any acceptable reason for not filing the application immediately after the filing of the written statement, the judgments relied upon by the learned counsel for the petitioner reported in **2006 (5) CTC 609 [Hi Sheet Industries, a partnership firm, carrying on business at 61-D, D.V. Road, Ambur Town, Vellore District Vs. Litelon Limited, having its office at No.68, Sipcot Industrial Complex, Hosur, rep by its Managing Partner, S.Gokul and others]** and **CDJ 2017 MHC 082 [C.Ramasamy (deceased) & others Vs. K.Palanisamy & others]** are not

applicable to the present case.

7. Though there is no bar under Order 6 Rule 17 of the Code of Civil Procedure for filing an application after the commencement of the trial, the plaintiff should have given sufficient reason for not filing the application at the earliest point of time. In the case on hand, the plaintiff has not given any acceptable reason for not filing the application at the earliest point of time. In these circumstances, the trial Court is perfectly correct in dismissing the application.

8. I do not find any error or irregularity in the order passed by the trial Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
va

28.03.2017

To

The Principal District Munsif,
Ulundurpet.

M. DURAISWAMY,J.

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28.03.2017
<http://www.judis.nic.in>