

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1474 of 2017
& C.M.P.No.6848 of 2017

Manikam @ Chandirasekaran

.. Petitioner

Vs.

1.Muthusaamy
2.Natesan
3.Sakthivelmurugan
4.M.Shanmugam

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 14.11.2016 in I.A.No.155 of 2016 in O.S.No.82 of 2013 on the file the District Munsif, Rasipuram.

For Petitioner : Mr.S.Sounthar

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order dated 14.11.2016 in I.A.No.155 of 2016 in O.S.No.82 of 2013 on the file the District Munsif, Rasipuram.

2.The petitioner is the defendant and the respondents are the plaintiffs in O.S.No.82 of 2013. Originally the first respondent filed suit for injunction restraining the petitioner from interfering with usage of cart track leading to his property. Subsequently, the respondents 2 and 4 were impleaded as plaintiffs 2 to 4. The respondents filed I.A.No.155 of 2016 for amendment of the plaint, in the body of the plaint instead of plaintiff as first plaintiff and instead of plaintiff as plaintiffs and in the schedule to the plaint, to include survey number mentioned in the affidavit. The respondents 1 to 4 filed the said application for amendment and the amendment sought for by the respondents are consequential amendment after impleading respondents 2 to 4 as plaintiffs 2 to 4.

3. The petitioner filed counter affidavit and opposed the said application stating that the respondents have not given any reason for such amendment. By amendment, the respondents are seeking to introduce new cause of action.

4. The learned Judge, considering the averments mentioned in the affidavit, counter affidavit, materials available on record, allowed the application holding that amendment sought for relates

to properties belonging to the newly ordered plaintiffs. Against this, Civil Revision Petition is filed.

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

6. The learned Counsel appearing for the petitioner submitted that by adding new survey numbers in the schedule plaint, the respondents have introduced a new cause of action. The learned Judge has exceeded his jurisdiction and allowed the application. These contentions have no force and it is liable to be rejected. The respondents 2 to 4 were impleaded as plaintiffs. Originally, the first respondent alone has filed the suit and sought for injunction restraining the petitioner from interfering with usage of the cart track leading to his property mentioned in the schedule to the plaint.

7. After respondents 2 to 4 were impleaded as plaintiffs, amendment was sought for to include survey number in the schedule to the plaint, i.e., the property belonging to the respondents 2 to 4 and the injunction restraining the petitioner

from interfering with usage of cart track by the petitioner and by the respondents 2 to 4 also. No amendment is sought for with regard to cart track. As rightly contended by the learned counsel for the petitioner, accepted by the learned Judge, by amendment the properties of respondents 2 to 4 which is included, is only consequential amendment as they 2 to 4 were impleaded as plaintiffs 2 to 4.

8. In the circumstances, there is no illegality or irregularity in the order passed by the learned Judge, dated 14.11.2016 warranting interference by this Court

9. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

21.04.2017

Index : Yes

dm/gya

To
The District Munsif,
Rasipuram.

V.M.VELUMANI, J.

dm/gya

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