

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2017

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(PD).No.277 of 2017
and C.M.P.No.1240 of 2017

T.V.Arumugam

.. Petitioner

Vs.

1. P.Sundaramurthi
2. A.N.Rengasamy
3. R.Santhamani

.. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 01.09.2016 in I.A.No.306 of 2015 in O.S.No.777 of 2006 on the file of the Second Additional District Munsif, Coimbatore.

For petitioner : Mr.S.Kadarkarai

ORDER

The revision petition is filed challenging the dismissal of the application filed under Order 6 Rule 17 CPC for amending the plaint. The suit was originally filed for bare injunction restraining the defendants from interfering with the plaintiff's peaceful possession. Along with the suit, an application for interim injunction was also filed, restraining the defendants from interfering with the peaceful possession. The order of interim injunction granted, was communicated to the defendants, but it seems that

the defendants have disobeyed the order and trespassed into the property on 18.12.2005. Since the trespass is subsequent to the suit, the plaintiff thought it fit to amend the plaint for including the prayer to deliver the vacant possession of the suit property to the plaintiff by granting a decree for mandatory injunction. As the revision petitioner/plaintiff has asked for mandatory injunction, the same has to be made within a period of three years from the date of cause of action. The trespass was in the year 2005 and the application was filed only in the year 2015, i.e. beyond the period of limitation. Hence, the trial Court has dismissed the application as time barred. As the plaintiff has prayed for a direction to the defendants to deliver vacant possession of the suit property by granting a decree for mandatory injunction, strictly three year period is applicable to allow such amendment. As the amendment is filed beyond the period of limitation, the trial Court has rightly dismissed the application. There is no reason to interfere with the same. Hence, the Civil Revision Petition is dismissed. No costs. C.M.P. is closed.

31.01.2017

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Copy to

The Second Additional District Munsif, Coimbatore.

PUSHPA SATHYANARAYANA, J

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