

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.372 of 2015
& M.P.No.1 of 2015

Duraisamy

.. Petitioner

Vs.

1.Vadivel
2.Munusamy
3.Dhanasekar

4.The Superintendeing Engineer
Tamil Nadu Electricity Board
Villupuram.

5.The Executive Engineer
Tamil Nadu Electricity Board
Gingee, Villupuram District.

6.The Assistant Executive Engineer
Tamil Nadu Electricity Board
Avalurpet, Gingee
Villupuram District.

7.The Assistant Engineer
Avalurpet Village
Gingee
Villupuram District.

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the

Constitution of India, against the fair and decretal order dated 26.11.2014 made in I.A.No.1745 of 2014 in O.S.No.193 of 2009 on the file of the Additional District Munsif Court, Gingee, Villupuram District.

For Petitioner : Mr.G.Rajan

For R1 to R3 : No appearance

For R4 to R7 : Mr.V.Viswanathan

ORDER

Civil Revision Petition is filed against the fair and decretal order dated 26.11.2014 made in I.A.No.1745 of 2014 in O.S.No.193 of 2009 on the file of the Additional District Munsif Court, Gingee, Villupuram District.

2. The petitioner is first defendant, first respondent is the plaintiff, respondents 2 to 7 are the defendants 2 to 7 in O.S.No.193 of 2009 on the file of the Additional District Munsif Court, Gingee, Villupuram District. First respondent filed said suit for declaration to declare the right of the first respondent to enjoy the service connection to be given on the application dated 14.07.1984 along with the petitioner and other defendants and for injunction

restraining the respondents 4 to 7 not to give electricity connection to the petitioner and other defendants. The petitioner filed written statement on 28.08.2009 and the same was adopted by the respondents 2 and 3 and are contesting the suit. The first respondent filed I.A.No.1745 of 2014 under Order VI Rule 17 of C.P.C. for amendment of the plaint to include the relief of declaration to declare the share of the first respondent in electricity connection No.572, granted to the respondents 2 and 3.

3. According to the first respondent, pending suit, respondents 4 to 7 granted service connection in the name of respondents 2 and 3 and therefore, it is necessary to amend the plaint to include the present relief.

4. The petitioner filed counter affidavit and the same was adopted by the respondents 2 and 3 and opposed the said application.

5. The learned Judge considering the fact that pending suit, electricity service connection was given in the name of the respondents 2 and 3, allowed the application.

6. Against the said order dated 26.11.2014 made in I.A.No.1745 of 2014, the present Civil Revision Petition is filed by the petitioner/first defendant.

7. Heard the learned counsel for the petitioner as well as the respondents 4 to 7 and perused the materials available on record. Though notice was served on the respondents 1 to 3 and their names have been printed in the cause list, there is no representation on behalf of them either in person or through counsel.

8. The learned counsel for the petitioner contended that the relief sought for by the first respondent is barred by limitation. Service connection was granted in the name of the petitioner on 12.01.2011 and petitioner filed present application for amendment only on 29.10.2014 i.e., beyond the period of three years. The said contention is untenable. The question of limitation is a mixed question of fact and law and the same can be decided only after appreciating evidence let in by the parties. From the materials on

record, it is seen that service connection was given pending suit, when the first respondent sought for injunction restraining the respondents 4 to 7 not to give electricity connection excluding the first respondent. In view of the original relief sought for by the first respondent in the suit, the learned Judge has rightly allowed the application. There is no illegality or irregularity warranting interference by this Court with the order of the learned Judge dated 26.11.2014.

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

15.12.2017

Index : Yes/No

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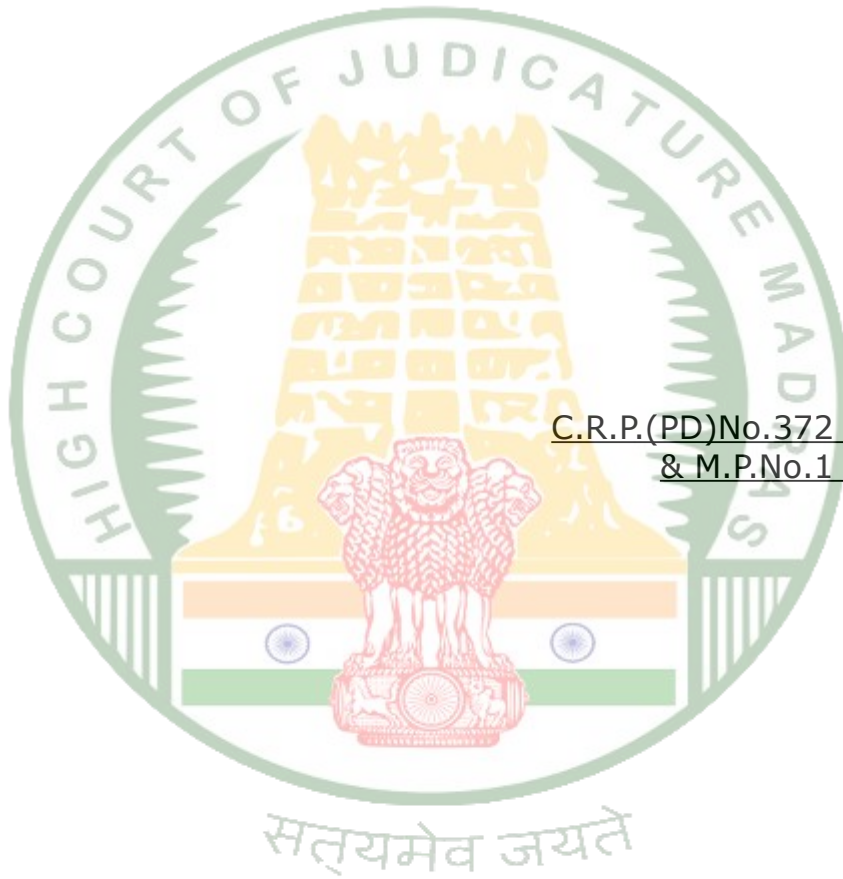
To

The Additional District Munsif, Gingee
Villupuram District.

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V.M.VELUMANI, J.

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