

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.01.2017

CORAM:

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM

C.R.P.(PD) No.973 of 2014
& M.P.No.1 of 2014

G.N.Murugappan .. Petitioner/Plaintiff

-VS-

1. Gobichettipalayam Municipality
rep. By its Commissioner,
Gobichettipalayam.

2. Shanthi

.. Respondents/defendants

The Civil Revision has been filed under Article 227 of the Constitution of India against the fair and decreetal order in I.A.No.524 of 2013 in O.S.No.69 of 2009 on the file of the District Munsif's Court, Gobichettipalayam, dated 09.01.2014.

For Petitioner : Mr.R.Meenal

For Respondent-1 : Mr.D.Suriyanarayanan

For Respondent-2 : Mr.N.Manokaran

सत्यमेव जयते
ORDER

Petitioner has come up with the present revision challenging the order made in I.A.No.524 of 2013 in O.S.No.69 of 2009 on the file of the District Munsif's Court, Gobichettipalayam, on 09.01.2014.

2. The petitioner is the plaintiff in the suit and the suit is for mandatory injunction. The suit was instituted by the petitioner/plaintiff on 12.03.2009 and the suit was dismissed for default on two occasions and at the instance of the petitioner/plaintiff, the same was restored and posted for trial. Under these circumstances, the petitioner/plaintiff filed an application in I.A.No.1382 of 2013 seeking amendment of

plaint which was rejected by the Trial Court by stating that since the suit was posted for trial and further amendment of plaint, will alter the nature of the suit. Further, the findings of the Trial Court is that the petitioner/plaintiff is not interested in pursuing the suit and has filed the petition only to prolong the same. Aggrieved against the said order, the plaintiff is before this Court by way of this revision.

3. Learned counsel for the petitioner contended that the suit is for mandatory injunction and the prayer sought for in the suit is to insert the name of the petitioner/plaintiff as licensee of the first defendant Municipality and further the mistakes were committed at the time of filing of the plaint and that will not alter the nature of suit.

4. Learned counsel for the respondent opposed the contentions by stating that the present petition seeking amendment of plaint was filed after a lapse of four years and further once the suit was dismissed for default and the petitioner/plaintiff is adopting delay tactics and hence, this Court has to discourage the attitude of the petitioner/plaintiff.

5. Heard the parties and perused the materials on record.

6. From the perusal of the records it is seen that the suit was filed on 12.03.2009 and the same is pending for more than four years. The application seeking amendment of plaint is filed only on 13.08.2013 and the Trial Court rightly held that the petitioner/plaintiff had adopted delay tactics and no endeavour had been shown in pursuing the suit. Such being the findings of the trial Court, this Court is not inclined to consider the contentions raised by the learned counsel for the petitioner and the present Civil Revision Petition deserves dismissal as devoid of merits. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To,

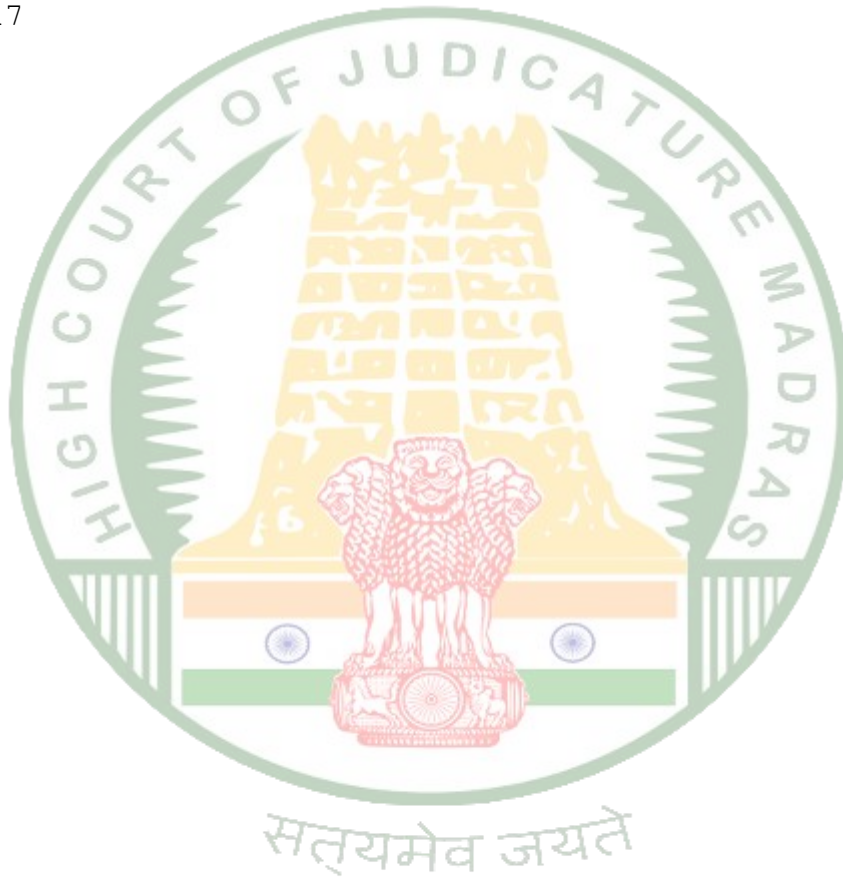
1. The District Munsif's Court, Gobichettipalayam.

+1cc to Mr.R.Meenal, Advocate, S.R.No.2980

+1cc to Mr.N.Manokaran, Advocate, S.R.No.3126

C.R.P.(PD) No.973 of 2014

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