

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **26.04.2017**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(N.P.D.) No.1984 of 2013

K.Subramani : Petitioner
versus

1.The Executive Officer,
Arulmighu Nithia Kalyan Perumal Thirukoil,
Thiruvidanthai Village and Post
Chengalpattu Taluk,
Kancheepuram District.

2.Devaraj : Respondents

PRAYER: Revision filed against the order dated 08.07.2011, in I.A.No.1068 of 2011 in O.S.No.172 of 2002 on the file of the District Munsif, Chengalpatu, Kanchipuram District.

For petitioner :: Mr.M.K.Bhoopathy Rajan

For respondents :: Mr.V.Raghavachari for R-1

ORDER

The petitioner, eight years after filing written statement by the first respondent, denying his title, filed an application for amendment of the plaint. The application was dismissed by the Trial Court. Feeling aggrieved, the petitioner in I.A.No.1068 of 2010 in O.S.No.172 of 2002 on the file of the learned District Munsif, Chengalpat, is before this Court.

2. I have heard the learned counsel for the petitioner. I have also heard the learned counsel for the respondents.

3. The petitioner filed a suit for permanent injunction against the respondents to restrain them from interfering with his peaceful possession and enjoyment of the suit property, situated at S.No.390/4 (Old S.No.127/4) Thiruvidadanthai Village, Kanchipuram District. The first respondent filed a written statement contending that the temple is in the ownership and possession of the property. The suit was filed in the year 2002. The written statement was filed in the year 2003. The petition seeking temporary injunction in I.A.No.946 of 2002 was dismissed by the Trial Court on 5 December 2003. There was a clear finding that the petitioner failed to prove his possession and enjoyment of the property and that the documents filed by him were not relevant to decide the issue raised in the suit.

4. The petitioner filed application in I.A.No.1068 of 2010 for amendment of the plaint. The petitioner wanted several amendments to the plaint, including correction of the survey number.

5. The learned Trial Judge found that totally a new case was sought to be introduced by way of amendment. There was an attempt even to substitute the cause of action, by way of amendment. The Trial Court therefore dismissed the application.

6. The amendment application in question was filed eight years after filing written statement by the first respondent. In fact, the order passed by the Trial Court declining to grant injunction was taken up before the I Appellate Court. It was only during the fag end, the petitioner has come up with the application for amendment to rewrite the entire plaint. The learned Trial Judge considered the materials and rightly rejected the prayer for amendment. I do not find any error or illegality in the said order, warranting interference by exercising the revisional jurisdiction under Article 227 of the Constitution of India.

7. In the upshot, I dismiss the civil revision petition. No costs. Consequently, M.P.No.1 of 2013 is also dismissed.

26.04.2017

Index:Yes/no
tar

To

The District Munsif, Chengalpatu, Kanchipuram District.

K.K.SASIDHARAN, J.

(tar)

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