

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27.04.2017**

CORAM:

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

C.R.P.(P.D.) No. 2552 of 2013 and
M.P.No.1 of 2013

Moorthy

...Petitioner

Vs

A/M.Margasagayaswamy Temple, Moovalur,
Represented by its Executive Officer,
Having his office at Moovalur,
Mayiladuthurai Taluk,
Nagapattinam District.

...Respondent

Prayer:- Civil Revision Petition filed under Article 227 of Constitution of India, against the fair and final order of the Principal District Munsif Court, Mayiladuthurai, dated 03.01.2013, made in I.A.No.403 of 2012 in O.S.No.3 of 2012.

For Petitioner : Mr.S.Sounthar

For Respondent : No appearance

ORDER

The petitioner filed a suit in O.S.No.3 of 2012, before the learned Principal District Munsif, Mayiladuthurai for injunction. In the said suit, the respondent filed a written statement indicating that the petitioner is a tenant paying rent to the temple.

2. Subsequently, the respondent filed an application in I.A.No.403 of 2012, for amendment of the written statement. The respondent wanted to delete the existing paragraph 4 and substitute it by a new paragraph indicating that the petitioner is not in possession of the property. The application was allowed by the learned trial Judge notwithstanding the objection raised by the petitioner. The order is under challenged at the instance of the respondent in I.A.No.403 of 2012.

3. The learned counsel for the petitioner contended that the admission contained in the written statement filed already cannot be taken away by filing an application for amendment. According to the learned counsel, there was a clear admission made by the respondent with respect to the possession of the property in question by the petitioner as a tenant. The impugned order is bad and therefore, it is liable to be set aside.

4. None appeared on behalf of the respondent.

5. The petitioner filed a suit for injunction. In the said suit, the respondent filed a written statement indicating that the petitioner is a

tenant and he has been paying rent. The said admission is now sought to be withdrawn by adding a new paragraph indicating that he is not in possession of the property. There is no question of substituting the paragraph in the written statement for the purpose of withdrawing the admission made already. This aspect was not considered by the learned trial Judge. I am therefore of the view that the order permitting the respondent to amend the written statement by substituting paragraph 4 should be set aside.

6. In the result, the order dated 3 January, 2013 is set aside, only in so far as the direction substituting paragraph 4 is concerned. The respondent is permitted to add Paragraph 4 as found in the petition filed under Order VI Rule 17 of C.P.C. In short, new paragraph would be added, rather than substitution of the existing paragraph.

7. The Civil Revision Petition is disposed of with the above modification. No costs. Consequently, connected miscellaneous petition is closed.

27.04.2017

asi/svki

K.K.SASIDHARAN,J.

(svki)

To

Principal District Munsif Court,
Mayiladuthurai

C.R.P.(PD) No. 2552 of 2013

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