



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 28.06.2017

CORAM :

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

C.R.P(PD) (MD) No.2405 of 2015

and

M.P(MD) No.1 of 2015

WEB COPY

Nazurunnissa ... Petitioner/Petitioner/2nd Defendant

vs.

Mohammeda Beebi ... Respondent/Respondent/Plaintiff

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 22.06.2015 made in I.A.No.705 of 2014 in O.S.No.745 of 2005 on the file of Principal District Munsif, Tiruchirapalli and allow the above Civil Revision Petition.

For Petitioner : Mr.P.Thiagarajan
For Respondent : Mr.K.Baala Sundaram

O R D E R

This Revision Petition is directed against the dismissal of I.A.No.705 of 2014 filed by the second defendant under Order 7 Rule 11(a) of the Civil Procedure Code to reject the plaint as against the second defendant.

2.The main contention of the revision petitioner is that the suit property stands in the name of the revision petitioner. However, the suit for mandatory injunction was filed only against the husband of the revision petitioner in the year 2005. Immediately written statement was filed by the first defendant, namely, Abdul Malikhhan, who is the husband of the revision petitioner herein stating about the ownership of the alleged offending portion. In spite of putting him into notice about the ownership, the plaintiff did not cared to make suitable amendment earlier. After completion of recording the evidence of the witnesses, the application to implead the revision petitioner was filed and the same was allowed.

3.Since there is no cause of action stated in the plaint and no relief has sought as against the revision petitioner, the suit has to be struck off as against the revision petitioner. The Trial Court has not favourably considered the above contention. Hence



the present revision petition has been filed by the petitioner.

4. On perusing the records and hearing the learned counsel for the respective parties, it is found that though certain observations were made by the Courts below regarding separability of husband and wife and they should be treated as a single person for certain other things. The conclusion of the Courts below for dismissing the petition under Order 7 Rule 11(a) of Civil Procedure Code does not appear to be a perverse one or illegal. Hence the revision petition is dismissed. If the second defendant has not filed a written statement, liberty is given to her to file her written statement within a period of 30 days from today (28.06.2017). It is open to second defendant to take all the defences available including the point of limitation.

5. With the above direction, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

/True copy/

sub Assistant Registrar

To
The Principal District Munsif,
Tiruchirapalli.

+1cc to Mr.P.Thiagarajan, Advocate, SR.62326

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RMK/MSA
KK/SV MMS/SAR4/28.06.2017/2P-3C/