



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.02.2017

CORAM:

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THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(MD)No.372 of 2017 (PD)

and

C.M.P.(MD)No.1841 of 2017

Sathaiah (died)

1.Boominathan

2.Govindan

3.Muniswaran

4.Mari

5.Rajendran

6.Malaiyarasi

...Petitioners/Respondents 2 to 7/

Defendants 2 to 7

Vs

Maithidaiyan (died)

Alagumalai (died)

1.Ayyathurai

2.Ramu

(The respondents as President and

administrators of General Committee

and the representatives of the Morepannai

villagers)

...Respondents 1 & 2/Petitioners 3 & 4/

Plaintiffs 3 & 4

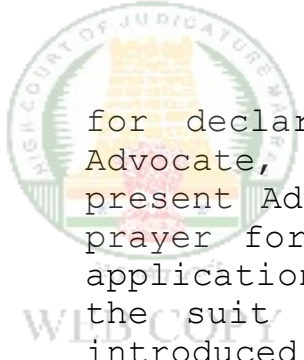
PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, to set aside the fair and decretal order in I.A.No.418 of 2016 in O.S.No.1 of 2000, on the file of District Munsif Court, Thiruvadanai, dated 06.01.2017.

For Petitioners : Mr.V.Raghavachari

ORDER

The petitioners have filed this Civil Revision Petition to set aside the fair and decretal order in I.A.No.418 of 2016 in O.S.No.1 of 2000, passed by the District Munsif, Thiruvadanai, dated 06.01.2017.

2.The petitioners are the defendants 2 to 7. The respondents 1 & 2 and others filed suit in O.S.No.1 of 2000 for injunction. The first petitioner filed written statement and contesting the suit. The respondents 1 & 2 along with other plaintiff filed I.A.No.418 of 2016 for amendment of the plaint to include the relief of ~~declaration and injunction~~ title. According to respondents 1 & 2 and other plaintiff, at the time of filing of suit they claimed relief of declaration and injunction. Then their Advocate deleted the prayer



for declaration without their knowledge. After death of their Advocate, the respondents 1 & 2 and other plaintiffs engaged the present Advocate and then only they came to know the deletion of prayer for relief of declaration. Therefore, they have filed an application for amendment submitted that by amendment character of the suit will not be changed and no new cause of action is introduced.

3. In the said I.A., the first petitioner filed counter and opposed the said application and submitted that application is belated one. The respondents 1 & 2 and other plaintiffs filed application only after commencement of trial and after examination of witness on their behalf. On various occasions, suit was dismissed for default and subsequently, it was restored to file. The intention of the respondents 1 & 2 is only to drag on the proceedings.

4. The learned Judge considering the averments made in the affidavit and counter affidavit and materials on record especially the fact that the respondents 1 & 2 and other plaintiffs originally sought the relief of declaration and subsequently, the same was deleted before numbering the suit, allowed the application filed by the respondents 1 & 2.

5. Against the said order of allowing I.A.No.418 of 2016, the petitioners have come out with the present Civil Revision Petition.

6. I have heard the learned counsel appearing for the petitioners and also perused all the materials available on record.

7. From the records, it is seen that the plaintiffs have prayed for relief of declaration and injunction when they filed suit. Subsequently, the said prayer was deleted before numbering the suit. According to plaintiffs, their then Advocate without their knowledge and consent deleted the relief of declaration. The first petitioner in his written statement denied the title of the plaintiffs. It is well settled that a relief of declaration can be incorporated by amendment in the plaint at any stage of the suit. In the present case, the plaintiffs originally filed suit for relief of declaration and injunction and subsequently, the said relief of declaration has been deleted. In the circumstances, by the present amendment to include the relief of declaration will not change the character of suit and will not introduce new cause of action. The learned Judge has rightly allowed the application and there is no illegality or irregularity in the order warranting interference by this Court.



8. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

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Sd/-

Assistant Registrar (ADII)

/True Copy/

Sub-Assistant Registrar

To

The District Munsif,
Thiruvadanai.

+One cc to Mr.V.Raghavachari, Advocate, SR.No.11013

am

RL/3C/3P/SV/MMS/24.3.2017

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24.02.2017