



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2017

CORAM :

WEB COPY

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.R.P (MD) No.794 of 2017 (PD)

and

C.M.P (MD) No.3589 of 2017

R.Durai Rajan

.. Petitioner/Petitioner/
Defendant

vs.

V.Vanniarajan

.. Respondent/Respondent/
Plaintiff

Prayer:- Civil Revision Petition is filed the under Article 227 of Constitution of India, against the Order and decreetal order, dated 09.01.2017 passed in I.A.No.300 of 2016 in O.S.No.31 of 2017, on the file of the Principal District Munsif, Thanjavur.

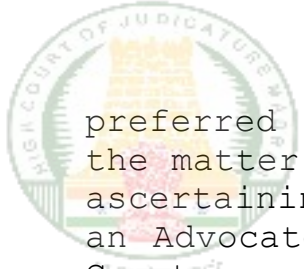
For Petitioner : Mr.G.Karnan

ORDER

This revision petition is filed against the fair and decreetal order dated 09.01.2017 passed in I.A.No.300 of 2016 in O.S.No.31 of 2017, on the file of the Principal District Munsif, Thanjavur.

2. This revision petition is filed against the dismissal of the request made by the defendant to file additional written statement. The contention of the revision petitioner is that he is not introducing any new facts but only wants to place on record through the additional written statement that the measurements of the disputed properties shown in square feet should be converted into metre, since the measurements in revenue records are in metres. The Trial Court ought to have allowed his application to file the additional written statement, but has dismissed the application on the ground that the said request is belated one and cannot be entertained.

<https://hcservices.ecourts.gov.in/hcservices> 3. The facts of the case is that the suit in O.S.No.31 of 2007 filed for declaration and injunction was earlier disposed of by the Trial Court on 01.10.2009 and thereafter appeal was



preferred and in the appeal, the Lower Appellate Court remanded the matter for fresh trial with direction to decide the case after ascertaining the physical features of the property by appointing an Advocate Commissioner. The remand order of the Lower Appellate Court was passed on 26.04.2012. The revision petitioner having sat over the matter for four more years after the order of remand had taken out the application seeking permission to file additional written statement.

4. The learned counsel for the revision petitioner submitted that there is no new facts pleaded in the additional written statement except to consider the measurement in meters instead of square feet. However on comparing the statement filed by the revision petitioner on 23.07.2007 and the proposed additional written statement sought to be filed, this Court finds mountain of new facts are tried to be introduced. For mere conversion of the measurement from square feet to meters, it is not necessary to file additional written statement that too belatedly after ten years of instituting the suit. Court is competent to take judicial notice of the converted measurements. Hence, the Trial Court has rightly dismissed the application to receive additional written statement. This Court finds that there is no merits in this revision petition.

5. In the result, this Civil Revision Petition is dismissed. No Costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CSIII)

/True Copy/

Sub-Assistant Registrar

To

The Principal District Munsif, Thanjavur.

+One cc to Mr.G.Karnan, Advocate, SR.No.52381

PJL

RL/3C/2P/MR/2.5.2017

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