



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.04.2017

CORAM:

WEB COPY

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.R.P (MD)No.855 of 2017(PD)

Christibai .. Petitioner/Petitioner/Plaintiff
Vs.

Edwin Gnanadhas .. Respondent/Respondent/Defendant

Prayer: This Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the fair and decreetal order passed in I.A.No.41 of 2017 in O.S.No.734 of 1999 dated 23.02.2017 on the file of the Additional District Munsif Court, Nagercoil and allow this revision petition.

For Petitioner : Mr.S.C.Herold Singh

ORDER

The revision petition filed against the fair and decreetal order of the learned Additional District Munsif Judge, Nagercoil, in I.A.No.41 of 2017 in O.S.No.734 of 1999, dated 23.02.2017.

2. Heard the learned counsel for the petitioner and perused the materials placed before this Court.

3. The suit in O.S.No.734 of 1999 was filed for compensation for damages and mandatory injunction. The plaintiff has filed I.A.No.41 of 2017 sought for an amendment in the prayer by including the relief of permanent injunction. The reason stated by the plaintiff to seek the amendment in the prayer is that pending suit, the defendant is trying to encroach upon the disputed property and therefore the petitioner seeks amendment in the prayer by including the relief of permanent injunction.

4. The Trial Court after considering the pleadings of both the parties has held that by seeking amendment, the plaintiff is trying to introduce new facts totally different from what pleaded and agitated all along in the suit. Hence the Trial Court declined the request of the plaintiff and dismissed I.A.No.41 of 2017.

5. Aggrieved by the said dismissal order, the present revision petition is filed on the ground that pending suit, the defendant has tried to demolish the compound wall and hence to



avoid multiplicity of proceedings, it is just and necessary to amend the suit by including relief for permanent injunction.

6. It is contended by the revision petitioner that the learned Judge has failed to consider the amendment application in the proper perspective and it has lead to waste the precious time of the Court. Since the amendment is sought for facts incidental to original suit while there is no change in circumstances of the pleadings.

7. After giving anxious consideration to the application and the grounds of appeal, this Court finds that the amendment sought for by the revision petitioner did not disclose the date or time when the defendant attempted to demolish the boundary. The cause of action clause is not sought to be amended. Without disclosing the cause of action, a new prayer based on a subsequent event has sought to be brought in, through amendment.

8. The Trial Court therefore has rightly held that a new set of facts totally alien to the existing pleadings cannot be brought in by way of amendment. This Court finds no irregularity or illegality in the order passed by the Trial Court. Hence this Civil Revision Petition is dismissed. No Costs.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The Additional District Munsif Court,
Nagercoil.

+1 cc to Mr.S.C.Herold Singh, Advocate, SR.No. 52749

C.R.P (MD) No.855 of 2017 (PD)
19.04.2017

PJL

MKV-RR-SAR 3/27.4.2017/2P-3C