



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2017

CORAM:

WEB COPY

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.R.P.(MD)No.862 of 2017

and

C.M.P.(MD)No.3812 of 2017

1.N.Seenivasan
2.N.Sankerraj
3.N.Jeyaraj

.. Petitioners

Vs.

1.The President,
Thulukkan Kurichi Panchayat,
Thulukkan Kurichi Village,
Sattur Taluk,
Virudhunagar District.

2.M.Arunagiri

3.Assistant Director,
Land Survey and Records Department,
Chennai - 600 005.

4.The District Collector,
Virudhunagar District.

.. Respondents

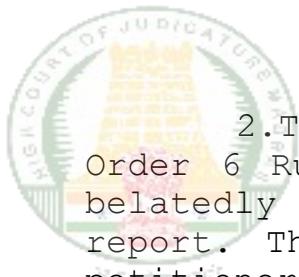
Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the Order passed in I.A.No.530 of 2016 in O.S.No.58 of 2007 dated 01.02.2017 on the file of District Munsif Court, Sattur.

For Petitioners

:: Mr.M.Kannan

O R D E R

The revision petitioners, who are the plaintiffs in O.S.No.58 of 2007 filed for injunction, sought for amendment of their plaint after 9 years of filing the suit.



2.The Trial Court has dismissed the petition filed under Order 6 Rule 17 of C.P.C, on the ground that it has been filed belatedly after the submission of the Advocate Commissioner's report. The reason for delay has not been substantiated by the petitioner.

WEB COPY

3.Aggrieved by the said order, this present revision petition is filed under Article 227 of the Constitution of India.

4.The ground raised in the revision petition is that since the respondents have made new construction during the pendency of the suit, they want to amend the plaint to show the area of encroachment and nature of new construction made by the defendants herein.

5.However, the Trial Court has failed to consider the above said fact and has dismissed the amendment application as belated one.

6.Perusal of the pleadings, it is clear that apprehending encroachment, the suit for injunction has been filed as early as 2007. Whereas now, a new plea of encroachment and construction by the defendants pending suit has been taken out by way of an amendment. While pleading so, the revision petitioner had not specifically stated when the respondent has put up the construction and why the amendment sought now was not filed at the earliest point of time.

7.Whereas the respondent herein has specifically stated that the alleged construction in the suit property is in existence even prior to filing of the suit and therefore, the application was taken out belatedly after nearly nine years. So the prayer by way of an amendment is not sustainable.

8.The revision petition challenging the dismissal of the amendment application carries no merits. This revision petition is liable to be dismissed and stands dismissed. Consequently, connected miscellaneous petition C.M.P.(MD)No.3812 of 2017 is also closed . No costs.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub-Assistant Registrar

To

The District Munsif Judge, The District Munsif Court, Sattur.

+One cc to Mr.M.Kannan, Advocate, SR.No.53325

GK/MM

RL/3C/2P/SV/5.5.2017

C.R.P. (MD) No.862 of 2017

and

C.M.P. (MD) No.3812 of 2017