



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 22.11.2017
CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WEB COPY

CRP(PD) (MD)No.685 of 2013
and M.P.(MD)No.1 of 2013

A.Arasakumar ... Petitioner/Petitioner/Plaintiff

vs.

1.Sankarasubramanian

2.Seetharaman

... Respondents/Respondents/Defendants

PRAYER: Petition filed under Article 227 of the Constitution of India against the fair and decretal order passed in I.A.No.1528 of 2012 in O.S.No.1 of 2010 dated 02.02.2013 on the file of the Principal District Munsif Court, Tirunelveli.

For Petitioner : Mr.H.Arumugam
For Respondents : Mr.R.Manimaran

O R D E R

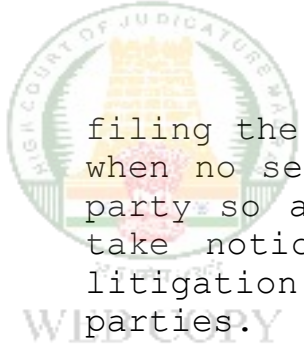
This Civil Revision Petition has been filed against the fair and decretal order passed in I.A.No.1528 of 2012 in O.S.No.1 of 2010 dated 02.02.2013 on the file of the Principal District Munsif Court, Tirunelveli.

2. The petitioner would aver among other things that the suit in O.S.No. 1 of 2010 was filed for permanent injunction restraining the defendants from disturbing the plaintiff's peaceful possession and enjoyment of the suit property.

3. In that suit, I.A.No.1528 of 2012 was filed to amend the survey number as Survey No.10982/1A Part instead of Survey Nos.1082/1A15 and 1082/1A18. The said application was rejected by the court below. Against which, the petitioner has filed the present Civil Revision Petition.

4. The learned counsel for the petitioner would submit that the court below ought to have allowed the Interlocutory Application, which was filed only to amend the survey number.

5. In support of his contention, the learned counsel for the petitioner would rely on the judgment of the Full Bench reported in 2006(5) CTC 609 (In Hi.Sheet Industries, Vellor District Vs. Litteron Limited represented by its Managing Partner S.Gokul and others) wherein the Hon'ble Apex Court has held that the delay in



filing the application for amendment of the pleadings is not fatal when no serious prejudice is shown to have caused to the opposite party so as to take away any accrued right and the Court should take notice of the subsequent events in order to shorten the litigation to preserve and safeguard the rights of both the parties.

6. At this juncture, the learned counsel for the respondent would submit that in the event of petition for amendment is allowed, a direction may be given to the court below to dispose of the suit within a time frame fixed by this Court.

7. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

8. As per the avements of both the petitioner as well as the respondent, possession of the petitioner is admitted. The petitioner sought amendment of survey number alone, which was dismissed stating that the petition was filed only to protract the proceedings.

9. Considering the above stated facts and circumstances and in view of the judgment cited supra and considering the submissions made by the learned counsel for the parties, this Court is inclined to set aside the order passed in I.A.No.1528 of 2012 in O.S.No.1 of 2010 by the Principal District Munsif Court, Tirunelveli. Accordingly, the same is set aside. Considering the submissions of the learned counsel appearing on either side and considering the fact that the suit is of the year 2010, there shall be a direction to the learned Principal District Munsif, Tirunelveli to dispose of the suit in O.S.No.1 of 2010 within a period of six months from the date of receipt of copy of this order.

10. With the above direction, this Civil Revision Petition is allowed. No costs. Consequently, connected M.P.(MD) No. 1 of 2013 is closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

The Principal District Munsif, Tirunelveli

+1CC to Mr.H.Arumugam, Advocate, SR.No. 88862

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