

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 23.04.2018

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P.(PD).No.1432 of 2018 and

C.M.P.No.7640 of 2018

K.Selvaraj

... Petitioner

Vs.

1. The President,
Vanniyanallur Panchayat,
Vanniyanallur Village,
Cheyyur Taluk,
Kancheepuram District.

2. The BDO, Chithamur Village and Post,
Cheyyur Taluk,
Kancheepuram District.

3. The Deputy Director (Panchayat)
Kancheepuram District.

4. Kumar

5. Renuka

6. Arumugham

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 20.09.2017 passed by the learned District Munsif at Madurantakam, Kanchipuram District, dismissing I.A.No.2018 of 2016 in O.S.No.23 of 2013.

For Petitioner : Mr.N.Nagu sah

ORDER

The relief sought for in this revision is to set aside the fair and decreetal order dated 20.09.2017 made in I.A.No.2018 of 2016 in O.S.No.23 of 2013 on the file of learned District Munsif at Madurantakam, Kanchipuram District.

2. The revision petitioner is the plaintiff in O.S.No.23 of 2013. According to him, the suit is filed against the respondents for declaration and permanent injunction. Subsequently, he filed an Interlocutory application under Order VI Rule 17 of CPC in I.A.No.2018 of 2016 in O.S.No.23 of 2013 to amend the schedule of property.

4. After hearing both sides, the trial Court dismissed the application in I.A.No.2018 of 2016 in O.S.No.23 of 2013.

5. Aggrieved against the said order, the present revision is filed by the revision petitioner.

6. Heard the learned counsel for the petitioner and perused the available records.

7. The revision petitioner filed the suit against respondents. Admittedly, the respondents filed the written statement and issues were framed. After commencement of trial, PW1 entered into witness box for chief examination. At this stage, the revision petitioner filed the application in I.A.No.2018 of 2016 under Order VI rule 17 to amend the schedule of property. The respondent filed counter and after hearing both sides, the trial Court dismissed the application.

8. On a perusal of the affidavit filed by the revision petitioner before this Court, he has not met out the required contingencies mentioned in the proviso to Rule 17 of Order VII of C.P.C. Therefore, the trial Judge rightly dismissed the application filed by the revision petitioner. After commencement of trial, filing an application under Order VII Rule 17 of C.P.C. is not a matter of right of the parties. They have to necessarily satisfy the proviso clause in the above said provision.

9. Hence, this Court doesn't find any reason to interfere with the order passed by the trial Court. There is no illegality, infirmity or perversity in the order passed by the trial Court in I.A.No.2018 of 2016 in O.S.No.23 of 2013.

P.VELMURUGAN, J.,

vum

10. In the result, the Civil Revision petition is dismissed. Consequently, connected Miscellaneous petition is closed. No costs.

23.04.2018

Index:Yes/No

Speaking order / Non speaking order

vum

To

The District Munsif
Madurantakam,
Kanchipuram District.



C.R.P.(PD).No.1432 of 2018
& C.M.P.No.7640 of 2018

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