

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1161 of 2015 and
M.P.No.1 of 2015

Ilanagai

.. Petitioner

Vs.

1.Nalla Gounder
2.N.Mahalingam
3.S.Vennila
4.N.Senthilkumar

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 06.02.2015 made in I.A.No.73 of 2015 in O.S.No.106 of 2008 on the file of the District Munsif Court, Tiruchengode.

For Petitioner : Mr.Cherian Mathiews

For Respondents : Mr.N.Manokaran

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 06.02.2015 made in I.A.No.73 of 2015 in O.S.No.106 of 2008 on the file of the District Munsif Court, Tiruchengode.

2. The petitioner is defendant and first respondent is plaintiff

in O.S.No.106 of 2008 on the file of the District Munsif Court, Tiruchengode. Originally, the first respondent, as a sole plaintiff filed the suit for permanent injunction and subsequently, on the application filed by him, plaint was amended to include the relief of declaration. The petitioner is contesting the suit by filing written statement and additional written statement. The trial commenced. First respondent filed I.A.No.631 of 2014 for impleading the respondents 2 to 4 as plaintiffs 2 to 4 on the ground that during cross-examination, the questions were put to him that the suit is hit for non-joinder of respondents 2 to 4 and the said application was dismissed. Challenging the said order of dismissal dated 02.08.2014 made in I.A.No.631 of 2014, the first respondent filed C.R.P.No.3576 of 2014 before this Court. This Court by order dated 18.11.2014 in C.R.P.No.3576 of 2014, set aside the order of dismissal dated 02.08.2014 made in I.A.No.631 of 2014 and the plaint was amended and the respondents 2 to 4 were impleaded as plaintiffs 2 to 4. The respondents 1 to 4 filed I.A.No.73 of 2015 for consequential amendment in the plaint in short cause title, long cause title, to include para-8B and in the prayer column in para-11 of the plaint, to amend "plaintiffs" instead of "plaintiff".

3. The petitioner filed counter affidavit and opposed the said

application and contended that relief of declaration sought for by the respondents 2 to 4 is barred by limitation and if amendment is ordered, it will take away the accrued right of the petitioner as she claims the relief of declaration is barred by limitation.

4. The learned Judge considering the averments made in the affidavit, counter affidavit, materials available on record and the fact that the amendment sought for is only a consequential amendment after impleading respondents 2 to 4 as plaintiffs 2 to 4, allowed the application.

5. Against the said order dated 06.02.2015 made in I.A.No.73 of 2015, the present Civil Revision Petition is filed by the petitioner/defendant.

6. Heard the learned counsel for the petitioner as well as the learned counsel for the respondents and perused the materials available on record.

7. The respondents 2 to 4 were ordered to be impleaded as plaintiffs 2 to 4 vide order of this Court dated 18.11.2014 made in C.R.P.No.3576 of 2014. After impleading the respondents 2 to 4 as

plaintiffs 2 to 4, the respondents 1 to 4 filed present application for consequential amendment.

8. From the averments made in the affidavit filed in support of the present application, it is clear that amendment sought for is only consequential amendment. Whether the relief of declaration is barred by limitation or not can be decided only by appreciating the evidence let in by the parties during trial.

9. For the above reason, the Civil Revision Petition is dismissed as devoid of merits. No costs. Consequently, connected Miscellaneous Petition is closed.

09.02.2018

Index:Yes/No

kj

To

The District Munsif
Thiruchengode.

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V.M.VELUMANI,J.

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