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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD).Nos.68 & 69 of 2018 and
C.M.P.(MD)Nos.296 & 297 of 2018

1. Alwin
2. Austin

... Petitioners/Respondents/
Defendants in both petitions

Vs.

Arulrajan

... Respondent/Petitioner/Plaintiff
in C.R.P.(MD)No.68 of 2018

Siluvai Gnanamani

... Respondent/Petitioner/Plaintiff
in C.R.P.(MD)No.69 of 2018

COMMON PRAYER : Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the fair and decreetal orders dated 31.10.2017 passed in I.A.Nos.510 and 511 of 2017 in O.S.No.79 of 2011 and O.S.No.77 of 2011 respectively on the file of the Principal District Munsif cum Judicial Magistrate Court, Nanguneri, by allowing these Civil Revision petitions with cost.

(in both petitions)

For Petitioners : Mr.V.Meenakshi Sundaram,
for Mr.D.Nalla Thambi.
For Respondents : Mr.P.Pethu Rajesh

C O M M O N O R D E R

The Revision petitioners are the defendants in O.S.No.77 of 2011 and O.S.No.79 of 2011 on the file of the Principal District Munsif cum Judicial Magistrate Court, Nanguneri. Both the suits were filed seeking the relief of permanent injunction. Thereafter, the plaintiffs filed two Interlocutory applications for amending the suit prayer into one for declaration and recovery of possession. Both the said applications were filed, after the trial had commenced. The Court below had allowed the amendment applications by order dated 31.10.2017. Challenging the same, the Civil Revision petitions have been filed.



2. The learned counsel appearing for the Revision petitioners pointed out that the Court below did not keep in view the mandate set out under Order 6 Rule 17 of C.P.C. Though the submission made by the learned counsel carries considerable weight and force, this Court is of the view that considering the nature of litigation involved, the amendment can be allowed to stand. The plaintiffs are after all asking for the reliefs for declaration and recovery of possession. The Court below has chosen to allow the same. It is rather a discretionary order. It does not call for any interference. However, the amendment will come into effect from the date when these amendment applications were filed. In other words, the amendments will not relate back to the institution of the suit. The defendants are at liberty to file additional written statement raising fresh defences and also adduce further evidence to bolster the same.

3. With these observations, the Civil Revision petitions stands disposed of. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (ADI)

// True Copy //

Sub Assistant Registrar (CS-IV)

To

1. The Principal District Munsif cum Judicial Magistrate,
Nanguneri.
2. The Record Keeper, V.R.Section, (2 COPIES)
Madurai Bench of Madras High Court, Madurai.

+1 CC To MR.D.NALLA THAMBI, Advocate SR. NO. 84141
+2 CC To MR.P.PETHU RAJESH, Advocate SR. NO. 84041 & 84039

C.R.P. (MD).Nos.68 & 69 of 2018 and
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