



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.R.P. (PD) (MD) No.2176 of 2015

and

M.P(MD) No.1 of 2015

K.Vaideki

... Petitioner/2nd Respondent/
2nd Defendant

Vs.

1. A.Basheer Mohamed
S/o.Abdul Kapoor,
Valaikollai Theru,
Avaniyapuram Village,
Thiruvidaimarudhur,
Thanjavur Taluk & District.
Rep. by his Power Agent,
T.C.Murugesan,
S/o.Chinna Pillai,
No.5/66A, Mela Street,
Thepperumanallur,
Thiruvidaimarudhur Taluk,
Thanjavur District.

...1st Respondent/Petitioner/
Plaintiff

2.P.Ramakrishnan

...2nd Respondent/1st Respondent/
1st Defendant

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Fair and Decreetal Order dated 14.08.2015 passed in I.A.No.457 of 2015 in O.S.No.18 of 2009 on the file of the II Additional District and Sessions Judge, Thanjavur.

For Petitioner	: Mr.G.Karnan
For R1	: Mr.R.Subramanian
For R2	: No appearance

O R D E R

The petitioner/2nd defendant has filed this Civil Revision Petition challenging the order passed by the learned II Additional District & Sessions Judge, Thanjavur, in I.A.No.457 of 2015 in O.S.No.18 of 2009, dated 14.08.2015.

2.Heard Mr.G.Karnan, learned counsel appearing for the petitioner and Mr.R.Subramanian, learned counsel appearing for the first respondent.



3. The petitioner is the second defendant in a suit in O.S.No.18 of 2009. The first respondent/plaintiff had filed the suit in O.S.No.18 of 2009 for specific performance. Pending suit, the first respondent/plaintiff filed an application in I.A.No.457 of 2015 under Order 6 Rule 17 of C.P.C., seeking to amend the plaint. The said application was allowed, directing the first respondent/plaintiff to pay a cost of Rs.1,000/- to the petitioner and the second respondent. Challenging the said order, the petitioner has filed the present Civil Revision Petition.

4. The learned counsel appearing for the petitioner would submit that the petitioner is a subsequent purchaser. The first respondent/plaintiff had already filed four amendment applications and after filing of proof affidavit, the first respondent has filed present application for amendment and he has not given any valid reason for amendment after 6 years from the date of filing of the suit.

5. The learned counsel appearing for the first respondent would submit that as per Order 6 Rule 17 of Civil Procedure Code, the Court has power to order amendment at any stage in a suit in order to determine the real questions in controversy between the parties. As per the proviso to said Rule, the Court can order amendment after commencement of trial only when the party seeking amendment proves that inspite of due diligent he could not have filed petition for amendment earlier. In the circumstances, the learned Judge has rightly allowed the application and this Court finds no illegality or irregularity warranting interference by this Court.

6. Accordingly, the Civil Revision Petition is dismissed, confirming the order passed by the II Additional District & Sessions Judge, Thanjavur in I.A.No.457 of 2015 in O.S.No.18 of 2009, dated 14.08.2015. The learned II Additional District & Sessions Judge, Thanjavur is directed to dispose of the suit in O.S.No.18 of 2009 by conducting trial on day-to-day basis without giving unnecessary adjournments to either of the parties, within a period of two months from the date of receipt of a copy of this order. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar



To

The II Additional District & Sessions Judge,
Thanjavur.

WEB COPY

+1cc to Mr.G.Karnan, Advocate Sr.No.69118

+1cc to Mr.R.Subramanian, Advocate Sr.No.69176

AM

VB/SKN/RSK/SAR3/06.07.2018/3P/4C

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