



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.R.P. (PD) (MD) No.673 of 2014

and

M.P. (MD) No.1 of 2014

WEB COPY

Karthikeyan

... Petitioner/Respondent/Defendant

-vs-

Shanmugakkani Ammal

... Respondent/Petitioner/Plaintiff

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the order dated 12.09.2013 in I.A.No.649 of 2013 in O.S.No.115 of 2012 on the file of the District Munsif Court, Srivaikuntam.

For Petitioner : Mr.G.Prabhu Rajadurai
For Respondent : Mr.M.S.Jeya Karthick

ORDER

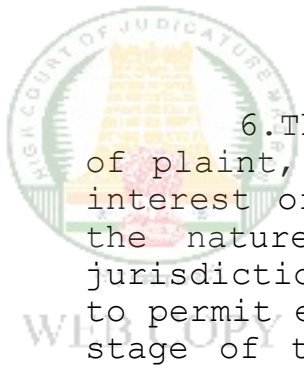
This Civil Revision Petition has been filed against the order dated 12.09.2013 made in I.A.No.649 of 2013 in O.S.No.115 of 2012, by the learned District Munsif Court, Srivaikuntam.

2.The respondent herein is the plaintiff in the suit in O.S.No.115 of 2012 on the file of the learned District Munsif Court, Srivaikuntam. The said suit is filed for declaration that the suit first schedule property exclusively belongs to the plaintiff and for consequential injunction. The suit is also for partition of plaintiff's share in the suit second schedule property.

3.It is seen from the records that the defendant has raised a plea that the suit property is not the exclusive property of the plaintiff. The plaintiff and defendant are the sister and brother.

4.During the pendency of the suit, the respondent herein / plaintiff filed a petition in I.A.No.649 of 2013 before the learned District Munsif Court, Srivaikuntam, to amend the plaint.

5.From the details of the amendment, it can be seen that the respondent / plaintiff wants to introduce an alternative prayer for partition of plaint first schedule property, in the event, the Court comes to the conclusion that the suit first item is also a joint family property of the plaintiff and defendant.



6. The trial Court, while allowing the petition for amendment of plaint, specifically held that the amendment is required in the interest of justice and that the proposed amendment does not alter the nature of the suit or change the cause of action. The jurisdiction and power of the Court under Order 6 Rule 17 of C.P.C to permit either parties to alter or to amend their pleadings at any stage of the proceedings in wide and unless serious prejudice is caused to the other side or by amendment there is change of cause of action or nature of suit, amendment cannot be refused only on the ground of delay.

7. When the amendment is required either for determination of the real questions in controversy between the parties or for the purpose of avoiding multiplicity of proceedings, the Court is entitled to allow the amendment. In this case, the suit was filed in the year 2012. The written statement was also filed in November, 2012. The amendment, introducing an alternative prayer because of the stand taken in the written statement, cannot be denied, as no serious prejudice would be caused to other side. In the instant case, the new prayer sought for by the plaintiff is just an alternative relief, and hence, it cannot be denied. Further, this Court has no reason to interfere with the order of the Lower Court, especially, in a case of this nature, when the amendment does not alter the cause of action.

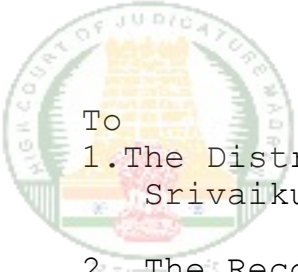
8. In the said circumstances, this Court is not inclined to entertain this Civil Revision Petition. Accordingly, this Civil Revision Petition is dismissed. The order dated 12.09.2013 made in I.A.No.649 of 2013 in O.S.No.115 of 2012 passed by the learned District Munsif Court, Srivaikuntam, is confirmed. However, it is open to the revision petitioner / defendant to file an additional written statement. If an additional written statement is filed, after the prayer in the suit is amended, it is for the Lower Court to give an opportunity to the parties and proceed further in accordance with law.

9. In view of the fact that the suit is pending from the year 2012, the learned District Munsif Court, Srivaikuntam is directed to expedite the trial and dispose of the suit in O.S.No.115 of 2012, within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/



To

1. The District Munsif,
Srivaikuntam.

2. The Record Keeper, VR Section,
Madurai Bench of Madras High Court,
Madurai. **(2 copies)**

+1CC to Mr.G.Prabhu Rajadurai, Advocate, SR.No.73690

+1CC to Mr.N.RAMESH ARUMUGAM, Advocate, SR.No. 73404

C.R.P. (PD) (MD) No.673 of 2014

17.07.2018

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