



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 06.06.2018

CORAM

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THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.R.P.(PD) (MD).No. 982 of 2015
and M.P.(MD) No. 1 of 2015

A. Rengammal ..Petitioner/Petitioner/Plaintiff

Vs.

Palaniappan .. Respondent/Respondent/Defendant

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India, to allow the Civil Revision Petition by setting aside the fair and decreetal order dated 10.12.2014 in I.A.No.337 of 2014 in O.S.No.162 of 2009 on the file of the learned District Munsif-Cum-Judicial Magistrate, Keeranur.

For Petitioner : Mr.P.Ganapathi Subramanian
For Respondent : No appearance.

O R D E R

The petitioner has come forward with this Civil Revision Petition, to allow the Civil Revision Petition by setting aside the fair and decreetal order dated 10.12.2014 in I.A.No.337 of 2014 in O.S.No.162 of 2009 on the file of the learned District Munsif-Cum-Judicial Magistrate, Keeranur.

2. The petitioner is the plaintiff and the respondent is the defendant in O.S.No.162 of 2009. The suit in O.S.No.162 of 2009 has been filed by the plaintiff, seeking permanent injunction. During the pendency of the suit, the petitioner/plaintiff has filed an application in I.A.No. 337 of 2014 in O.S.No.162 of 2009 before the trial Court under Order 6 Rule 17 of Civil Procedure of Code for amendment. The trial Court has dismissed the said interlocutory application. Aggrieved over the same, the revision petitioner/plaintiff has come forward with this Civil Revision Petition.

3. Heard Mr.P.Ganapathi Subramanian, learned counsel for the petitioner and there was no representation for the respondent and perused the documents available on record.

4. It is the case of the revision petitioner is that the suit in O.S.No.162 of 2009 has been filed by the petitioner/plaintiff for permanent injunction before the learned District Munsif-Cum-Judicial Magistrate, Keeranur. In the plaint filed by the plaintiff in O.S.No.162 of 2009, in the paragraph of cause of action, the plaintiff correctly mentioned the date of



cause of action as 15.07.2009, but in the pleadings the date is wrongly mentioned as 15.11.2009. Therefore, the petitioner has filed an application in I.A.No. 337 of 2014 in O.S.No.162 of 2009 before the trial Court under Order 6 Rule 17 of Civil Procedure of Code for amendment. The trial Court has dismissed the interlocutory application on 10.12.2014.

5. The present Civil Revision Petition has filed in the year 2015 which is pending more than three years and notice was also served to the other side. No one appeared for the respondent, eventhough, name is printed in the cause list. Therefore, I am inclined to allow the Civil Revision Petition, since the learned trial Judge without seeing the amendment which is a simple correction of date had simply dismissed without applying his mind. Because of the dismissal of the said petition, this Civil Revision Petition has been filed in the year 2015 and the same is pending unnecessarily for the past three years.

6. In the result, this Civil Revision Petition is allowed and setting aside the fair and decreetal order dated 10.12.2014 in I.A.No.337 of 2014 in O.S.No.162 of 2009 on the file of the learned District Munsif-Cum-Judicial Magistrate, Keeranur. The petitioner is directed to amend the plaint and file amended plaint copy within a period of two weeks from the date of copy of receipt of this order and the respondent has right to file his objections if any, after filing the amended plaint within a period of two weeks thereafter, the learned trial Judge is directed to dispose of the suit in O.S.No.162 of 2009 within a period of three months thereafter, without giving any unnecessary adjournments to either parties. The parties are directed to give their fullest cooperation for early disposal of the suit. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To
The District Munsif-Cum-Judicial Magistrate,
Keeranur.

+1cc to Mr.P.GANAPATHI SUBRAMANIAN, Advocate, SR.No. 67267

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KSA