



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.01.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (MD)No.1594 of 2017 (PD)

and

C.M.P. (MD) .No.9012 of 2017

S.Thanuskodi

.. Petitioner / Petitioner / Plaintiff

Vs.

Jahangir

.. Respondent / Respondent / Defendant

PRAYER: Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and Decreetal order passed in I.A.No.103 of 2016 in O.S.No.16 of 2015, dated 17.04.2017, by the learned Additional District Munsif cum Judicial Magistrate, Manamadurai.

For petitioner

: Mr.R.Murugan

For respondent

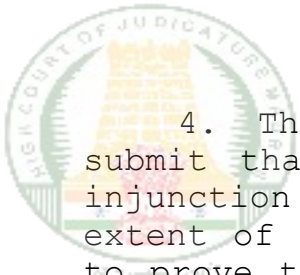
: Mr.K.C.Ramalingam

ORDER

Challenging the order passed by the learned Additional District Munsif cum Judicial Magistrate, Manamadurai, in I.A.No.103 of 2016 in O.S.No.16 of 2015, dated 17.04.2017, this civil revision petition has been filed by the revision petitioner / Plaintiff.

2. The revision petitioner / plaintiff has filed the suit for bare injunction against the respondent / defendant. According to the revision petitioner / plaintiff, the respondent has encroached upon his portion of the property. At the instance of the revision petitioner / plaintiff, an Advocate Commissioner was appointed and after inspection, the Advocate Commissioner has filed his report and plan in the year 2015. After the commencement of the trial, the revision petitioner / plaintiff has filed I.A.No.103 of 2016 seeking permission of the Court to amend the measurements mentioned in the plaint and to correct the draft map according to such measurements. The trial Court had dismissed the said application, against which the present civil revision petition has been filed by the revision petitioner / plaintiff.

3. The learned counsel for the revision petitioner would submit that the revision petitioner had sought for amendment only for a lesser extent and no prejudice would be caused to the respondent, if such application is allowed and the learned Judge, without considering the same, has erroneously dismissed the application. Thus, he prayed to allow this civil revision petition.



4. The learned counsel appearing for the respondent would submit that when the suit itself is specifically filed for bare injunction stating that he has been in possession of a particular extent of property, it is for the revision petitioner / plaintiff to prove the same. Though the Advocate Commissioner has filed his report in the year 2015, the revision petitioner / plaintiff has wilfully filed the said application, that too after the examination of witnesses and if the amendment sought for by the revision petitioner / plaintiff is allowed, that would cause great prejudice to the respondent. Thus, he prayed for dismissal of this civil revision petition.

5. Heard the learned counsel appearing for the revision petitioner / Plaintiff and the learned counsel appearing for the respondent / defendant and perused the records carefully.

6. It is seen that after completion of trial, I.A.No.103 of 2016 has been filed by the revision petitioner / plaintiff. It is also seen that though the Advocate Commissioner has filed his report in the year 2015, the revision petitioner / plaintiff has failed to take out such amendment petition forthwith and he has belatedly filed the amendment petition, that too after the cross-examination of the revision petitioner / plaintiff. There is no merit in the petition. This Court does not find any reason to interfere with the order passed by the Court below.

7. In view of the above, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(Protocol)

/True Copy/

Sub Assistant Registrar

To

1.The Additional District Munsif cum
Judicial Magistrate, Manamadurai.

+1cc to M/S.K.C.Ramalingam, Advocate SR.No. 44206

C.R.P. (MD)No.1594 of 2017 (PD)
25.01.2018

gcg
JM/JC/SAR 4/20.02.2018/2P/3C