



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.10.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD).No.1339 of 2018 and
C.M.P.(MD)No.5730 of 2018

Thangaraj

... Petitioner/Petitioner/
Plaintiff

Vs.

Raja @ Pandiaraja

... Respondent/Respondent/
Defendant

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records and set aside the orders dated 07.02.2018 in I.A.No.633 of 2017 in O.S.No.670 of 2004 on the file of the II Additional District Munsif Court, Tiruchirappalli and allow this Civil Revision petition with costs throughout.

For Petitioner : Mr.T.S.R.Venkataramana

For Respondent : Mr.M.Ashok Kumar

O R D E R

The plaintiff in O.S.No.670 of 2004 on the file of the II Additional District Munsif, Tiruchirappalli, is the Revision petitioner herein. The suit was filed for the relief of bare injunction or in the alternate for mandatory injunction. Trial is yet to commence. At this stage, I.A.No.633 of 2017 was filed for including the prayer for recovery of possession. The Court below by order dated 07.02.2018, dismissed the said Interlocutory application on more than one ground and one of the grounds is that the relief sought by way of amendment was time barred. Questioning the same, this Civil Revision petition has been filed.

2. Inasmuch as the trial in the suit is yet to commence, I am of the view that the Court below has to adopt a liberal approach.

3. The order impugned in this Civil Revision petition is set aside. This Court clarifies that the amendment will come into effect from the date when I.A.No.633 of 2017 was filed. In other words, the amendment will not relate back to the institution of the suit.



4. The Civil Revision petition stands allowed, accordingly. The respondent is at liberty to file an additional written statement taking the defences that are available to him in law. The Court below shall of course frame additional issues.

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5. The suit is of the year 2004. Therefore, the Court below is directed to dispose of O.S.No.670 of 2004 on merits and in accordance with law 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 //

Sub Assistant Registrar (CS-III)

To

1. The II Additional District Munsif,
Tiruchirappalli.

+1 CC To MR.M.ASHOK KUMAR, Advocate SR. NO. 89648

+1 CC To MR.T.S.VENKAT RAMANA, Advocate SR. NO. 89664

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TR/SKN/SAR-III (14.11.2018) 2P 4C