



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.08.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

C.R.P.PD[MD]No.1382 of 2018

and

C.M.P.[MD]No.5972 of 2018

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1.P.Singaraja

2.Tamil Selvi

:Petitioners/ Respondents/
Defendants

Vs.

1.Vijayalakshmi

2.Rajaram

3.Thiruppathi

4.Sudha

5.Padma

6.Jeyalakshmi

:Respondents/ Petitioners/
Plaintiffs

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 16.04.2018 made in I.A.No.317 of 2018 in O.S.No.179 of 2012 on the file of the Additional District Munsif, Manapparai.

For Petitioners : Mr.Raguvaran Gopalan
for Mr.K.Prabhakar

For Respondents : Mr.AN.Ramanathan

O R D E R

The defendants in O.S.No.179 of 2012, on the file of the Additional District Munsif Court, Manapparai are the revision petitioners herein. The respondents herein instituted the said suit seeking the relief of permanent injunction against the revision petitioners herein.

2.The case of the plaintiffs was that the suit property belonged to a temple and that they are in possession of the said suit property by virtue of being its cultivating tenants. According to them, the revision petitioners were seeking to interfere with the possession and enjoyment of the suit property. The said suit claim was opposed by the revision petitioners by contending that the temple had inducted the revision petitioners as cultivating tenants and that they are only in possession of the suit property.



3. Both the sides went to trial on the aforesaid pleadings. The plaintiffs examined themselves and also adduced documentary evidences. The revision petitioners also examined themselves and adduced documentary evidence. When the matter was posted for arguments, the plaintiffs filed I.A.No.317 of 2018, wanting to contend that the suit property is actually theirs and that the temple in question did not have any title over the same. This application was allowed by order dated 16.04.2018. The correctness of the said order is put to challenge in this Civil Revision Petition.

4. Heard the learned Counsel on either side.

5. As rightly contended by the learned Counsel for the revision petitioners, the plaintiffs originally filed the suit on the premise that the suit property belongs to the temple and that they are only its cultivating tenants. Now, by the impugned amendment, they want to set up title in favour of themselves. They are now denying the title of the temple. Thus, the very character of the suit will now get altered. More than anything else, as pointed out by the learned Counsel for the revision petitioners, this is a post-trial amendment. Therefore, the yardstick set out in the Proviso to Order VI Rule 17 of CPC will have to be met. The standard of due diligence is not shown to have been fulfilled in this case.

6. This court is of the view that even if the standard of due diligence is fulfilled in view of the alteration in the very character of the suit, the same cannot be allowed. Looked at from any angle, this Court is of the view that the Court below was not justified in allowing I.A.No.317 of 2018. The suit was filed way back in 2012 and the amendment has been sought to be introduced virtually at the last moment. This shows the lack of *bona fide* on the part of the plaintiffs. Therefore, the order impugned in this Civil Revision Petition stands set aside and the Civil Revision Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar(CS-III)

To

<https://hccases.aadts.gov.in/cases/> District Munsif,
Manapparai.



+2cc to Mr.AN.Ramanathan, Advocate SR.No.78068,78236

+1cc to Mr.K.Prabhakar, Advocate SR.No.78237

Mr

MK/SKN/SAR 3/31.08.2018/3P/5C

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ORDER MADE IN

C.R.P.PD[MD]No.1382 of 2018

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