



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]Nos.1376 & 1524 of 2018

and

C.M.P.[MD]Nos.5940 & 6633 of 2018

Ulaganathan : Petitioner in both CRPs.

Vs.

1.Amirthavalli

2.Alamelu @ Alamelu Mangai

3.Govindharajalu

4.Valarmathi

: Respondents in
C.R.P.PD[MD]No.1376/2018

Govindarajalu

: Respondent in
C.R.P.PD[MD]No.1524/2018

PRAYER in C.R.P.PD[MD]No.1376/2018: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order dated 31.01.2018 in I.A.No.1365 of 2017 in O.S.No.186 of 2007 on the file of the District Munsif Court, Aranthangi by allowing this Civil Revision Petition.

PRAYER in C.R.P.PD[MD]No.1524/2018: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order made in I.A.No.184 of 2014 in O.S.No.186 of 2007 on the file of the District Munsif Court, Aranthangi, Pudukkottai District dated 26.04.2018.

For Petitioner : Mr.K.Balasundharam
[In C.R.P.PD[MD]No.1376/2018]

For Petitioner : Mr.M.Suresh
[In C.R.P.PD[MD]No.1524/2018]

For Respondent No.3 : Mr.Pala.Ramasamy
[In C.R.P.PD[MD]No.1376/2018]

For Respondent : Mr.Pala.Ramasamy
[In C.R.P.PD[MD]No.1524/2018]

**COMMON ORDER**

The revision petitioner herein filed O.S.No.186 of 2007 on the file of the District Munsif Court, Aranthangi, seeking the relief of permanent injunction. After the trial commenced in the suit, he filed I.A.No.1365 of 2017, for amending the suit into one of declaration and injunction. Since it was a post-trial amendment, the Court below dismissed the Interlocutory Application by order dated 31.01.2018. Thereafter, the defendant filed I.A.No.184 of 2014, for making some minor corrections in the written statement. The same was allowed by the Court below. Both these orders are under challenge in these Civil Revision Petitions.

2.Heard the learned Counsel for the revision petitioner.

3.The learned Counsel for the revision petitioner pointed out that if the amendment does not constitute the addition of a new cause of action or raise a different case but amounts merely to a different or additional approach to the same fact, the amendment is to be allowed even after the expiry of the statutory period of limitation. For this proposition, he placed reliance on the decision of the Hon'ble Supreme Court reported in **AIR 1967 SC 96 [A.K.Gupta and Sons Ltd., Vs. Damodar Valley Corporation]**.

4.Of course, the aforesaid decision was rendered when the Proviso to Order VI Rule 17 of the Code of Civil Procedure was not in the statute book. Be that as it may, since the basic facts are already set out in the plaint, this Court is of the view that an indulgent approach can be adopted. Therefore, the order dismissing I.A.No.1365 of 2017 is set aside and C.R.P.PD[MD] No.1376 of 2018 is allowed. It is made clear that this Court has not expressed any opinion on the aspect of limitation and the same is left open. The defendant is at liberty to file written statement raising additional pleas. The Court below rightly allowed I.A.No.184 of 2014 filed by the defendant and the said order does not call for interference. Therefore, C.R.P.PD[MD] No.1524 of 2018 is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

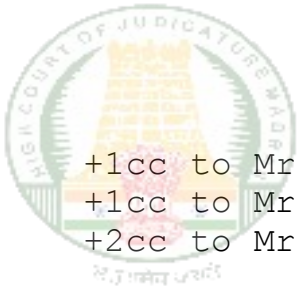
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-I)

To

The District Munsif,
Aranthangi,
Pudukkottai District.



+1cc to Mr.M.Suresh, Advocate Sr.No.78016
+1cc to Mr.K.Balasundharam, Advocate Sr.No.78036
+2cc to Mr.Pala.Ramasamy, Advocate Sr.No.78184,78183

MR
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COMMON ORDER MADE IN
C.R.P.PD[MD]Nos.1376 & 1524 of 2018
10.08.2018