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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
C.R.P. (PD) (MD) .No.1318 of 2016

and

C.M.P. (MD) No.6321 of 2016

and

C.M.P. (MD) No.8928 of 2018

- 1.P.M.Mohammed Siddique
- 2.P.M.Mohammed Jiffry
- 3.H.A.Ummul Faleela Beevi
- 4.A.Ummul Fareeda Beevi
- 5.H.M.Fowsiya Beevi
- 6.H.M.Rifaideen
- 7.Fathima Farvin
- 8.H.M.Farhana Zulaiha

... Petitioners

Vs.

- 1.Thondi Muslim Education Society,
represented by its Secretary,
M.Abdul Rawoof Nisthar

- 2.State of Tamilnadu
represented by its
District Collector,
Ramanathapuram.

- 3.Revenue Divisional Officer,
Ramanathapuram.

- 4.Tahsildar,
Thiruvadanai Taluk,
Ramanathapuram District.

- 5.Feroz Beevi
- 6.Ahamed Kabeer
- 7.Sabir Ahamed
- 8.Sameena Begum
- 9.Abdul Rawoof
- 10.Abdul Razack
- 11.Noor Mohamed
- 12.RM.Kabir

... Respondents

(R5 to R8 and R11 were dismissed
vide Court order dated 23.02.2017)

PRAYER : Petition filed under Article 227 of Constitution of India,
to call for the records relating to order dated 30.03.2016 in
O.S.No.3 of 2011 on the file of the Additional
District Judge, Ramanathapuram set aside the same and allow the
Civil Revision Petition.



For petitioners : Mr.J.Anandkumar
For R1,R10 &R12 : Mr.V.Sitharanjandas
For R2 to R4 : Mr.M.Karuppasamy
Government Advocate
For R9 : No appearance

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ORDER

The plaintiffs in O.S.No.3 of 2011 on the file of the learned Additional District Judge, Ramanathapuram, are the revision petitioners herein. The suit is one for declaration and permanent injunction. After the trial commenced, the plaintiffs filed I.A.No.2 of 2016 for incorporating the relief of recovery of possession in the alternative. The same was dismissed by order dated 30.03.2016. Questioning the same, this Civil Revision Petition has been filed.

2.The learned counsel appearing for the respondents raised very many contentions. He pointed out that the yardstick set out in the proviso to Order 6 Rule 17 of CPC has not been met in this case.

3.Even though the submission advanced by the learned counsel for the respondents carries great force and weight, this Court is of the view that in the interest of justice, the amendment in question can be permitted. But then, the amendment will come into effect, only from the date of application namely I.A.No.2 of 2016. In other words, it will not relate back to the institution of the suit.

4.The Counsel for the plaintiffs specifically gives an undertaking that they will not seek to adduce further evidence in support of the amendment. This undertaking is recorded.

5.The defendants are however at liberty to file an additional written statement taking additional pleas. The issue of limitation is left open and it shall be decided in the main suit.

6.The suit is of the year 2011. The Court below shall conclude the entire suit proceedings within a period of four months from the date of receipt of a copy of this order.

7.With these observations, the order impugned in this CRP is set aside and CRP is partly allowed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(AD-I)

/True Copy/

Sub Assistant Registrar(CS-I)



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To

The Additional District Judge,
Ramanathapuram.

- 1 CC TO Mr.J.Anandkumar , ADVOCATE IN SR No. 83995
- 1 CC TO Mr.V.Sitharanjandas , ADVOCATE IN SR No. 83992
- +1CC To Special Government Pleader in sr.no.84386.

PNN

DS SKN SAR-1 23 10 2018 3P 5C

ORDER MADE IN
C.R.P. (PD) (MD) .No.1318 of 2016
and
C.M.P. (MD) No.6321 of 2016
and
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