



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.1432 of 2016
and
C.M.P.[MD]No.7018 of 2016

V.Murugan : Petitioner
Vs.

V. Sankarapandi (Died)
1.Marirajam
2.Vinoth Kumar
3.Ragunath : Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 16.03.2016 passed in I.A.No.871 of 2014 in O.S.No.443 of 2005 on the file of the Principal District Munsif Court, Tirunelveli and allow the present Civil Revision Petition.

For Petitioner : Mr.K.Gokul
For Respondents : Mr.K.R.Laxman

O R D E R

The revision petitioner is the plaintiff in O.S.No.443 of 2005, on the file of the Principal District Munsif, Tirunelveli. It is a suit for injunction. During the pendency of the suit, the first defendant passed away. Thereafter, in the year 2012, it is alleged that the defendants put up an unlawful construction over the suit pathway. Therefore, the revision petitioner wanted to amend the prayer in the suit by praying for the relief of mandatory injunction. But then, relief of mandatory injunction cannot be sought in the absence of relief of declaration. Therefore, the present amendment came to be filed. The Court below has partly allowed the same.

2.The learned Counsel for the revision petitioner submitted that the said Interlocutory Application should have been allowed as such. This Court finds considerable force in the petitioner's request. In this view of the matter, the order impugned in the Civil Revision Petition is set aside to the extent it is against the revision petitioner. I.A.871 of 2014 is allowed in toto. Since the suit is of the year 2005, the Court below shall conclude the suit proceedings within a period of five months from the date of receipt of a copy of this order. Since the plaint has been amended by including the relief of declaration and mandatory injunction, it is



needless to mention that the defendants are entitled to file written statement and the additional issues will have to be framed. Since this will take a month or two, a direction to conclude the suit in five months.

3. The Civil Revision Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Crl. side)

/True Copy/

Sub Assistant Registrar(CS-I)

To

The Principal District Munsif Court,
Tirunelveli.

+1cc to M/S.K.Gokul , Advocate SR.No. 78265

ORDER MADE IN
C.R.P.PD[MD]No.1432 of 2016
10.08.2018

mr

JM/SKN RSK/SAR 1/05.09.2018/2P/3C