



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.1597 of 2016

and

C.M.P. (MD) No.7811 of 2016

Pon Balasubramanian ... Petitioner/Petitioner/Plaintiff

-vs-

1.Valliammal

2.Maniammal

... Respondents / Respondents / Defendants

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India praying to allow the civil revision petition by setting aside the fair order and decretal order passed in I.A.No.698 of 2015 in O.S.No.42 of 2012 dated 28.08.2015 on the file of the District Munsif Court, Srivaikundam.

For Petitioners : Mr.K.Karthick

For Respondents : Mr.C.Dhanaseelan

ORDER

The revision petitioner herein is the plaintiff in O.S.No.42 of 2012 on the file of the learned District Munsif Court, Srivaikundam. It is the suit for declaration of title, permanent injunction and mandatory injunction.

2.The case of the revision petitioner is that during the pendency of the suit, there was a further encroachment committed by the defendants on the eastern portion of the suit property. Therefore, the revision petitioner filed I.A.No.698 of 2015 for amending the plaint. It was dismissed by the Court below by order dated 28.08.2015. The correctness of the said order is under challenge in this Civil Revision Petition.

3.Heard the learned counsel on either side.

4.The learned counsel appearing for the respondents pointed out that the original relief sought by the plaintiff itself would cover his present concerns also.

5.Be that as it may, since this is only pre-trial amendment, I am of the view that an indulgent and liberal approach will have to be adopted. The defendants would not be prejudiced by allowing the said I.A.No.698 of 2015. Therefore, the impugned order is set aside and I.A.No.698 of 2015 is allowed.



6. With these observations, this Civil Revision petition stands allowed. The limitation point is left open. This Court has not gone into the merits of the matter. No costs. Consequently, connected miscellaneous petition is closed.

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Assistant Registrar (Records)

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Sub Assistant Registrar (CS-III)

To

1. The District Munsif,
Srivaikundam.
2. The Record Keeper,
V.R. Section (2 Copies),
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr. K. Karthick, Advocate SR.No.78262
+1cc to Mr. C. Dhanaseelan, Advocate SR.No.78249

Myr
MK/SKN/SAR 3/31.08.2018/2P/6C

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