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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 17.09.2018
CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (NPD) (MD) .Nos.1812 and 1813 of 2016
and
C.M.P. (MD)No.8724 of 2016

Periyasamy

... Petitioner in both CRPs

Vs.

1.Elumalai
2.Chinnakalai @ Dharmalingam
3.Seerengan

4.The State of Tamil Nadu
represented by the District Collector,
Collectorate,
Karur.

5.The Tahsildar,
Taluk Office,
Tharagampatti,
Kadavur, Kadavur Taluk,
Karur District.

... Respondents in both CRPs

PRAYER in C.R.P.(MD)No.1812 of 2016 : Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 29.04.2016 in I.A.No.1613 of 2015 in I.A.No.952 of 2015 in O.S.No.160 of 2015 on the file of District Munsif Court, Kulithalai.

PRAYER in C.R.P.(MD)No.1813 of 2016 : Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 29.04.2016 in I.A.No.1615 of 2015 in I.A.No.952 of 2015 in O.S.No.160 of 2015 on the file of District Munsif Court, Kulithalai.

For petitioner : Mr.K.Govindarajan

For R2 and R3 : No appearance

For R4 and R5 : Mr.M.Karuppasamy

**ORDER**

The plaintiff in O.S.No.160 of 2015 on the file of the District Munsif Court, Kulithalai, is the revision petitioner herein. The suit is one for declaration and permanent injunction. In the said suit, the revision petitioner filed I.A.No.951 of 2015 seeking the relief of interim injunction. He also filed I.A.No.952 of 2015 for appointing an advocate commissioner. I.A.No.952 of 2015 was allowed. But then, the revision petitioner realised that there is a mis-description of the suit schedule. Therefore, he took out an application for amending the suit schedule. That was allowed. He also filed I.A., application for amend the suit schedule in the injunction application in I.A.No.951 of 2015. That was also allowed. Thereafter, I.A.No.1615 of 2015 for amending the schedule in I.A.No.952 of 2015. That was dismissed. Questioning the same, this C.R.P.(MD)No.1813 of 2016 has been filed.

2.In the meanwhile, I.A.No.952 of 2015 itself got closed. To reopen the same, he filed I.A.No.1613 of 2015. Since, that was dismissed, challenging the same CRP(MD)No.1812 has been filed.

3.Heard the learned counsel appearing for the revision petitioner and the learned counsel appearing for the respondents 4 and 5.

4.The names of respondents 2 and 3 are printed. The second respondent is none other than the brother of the first respondent. The third respondent is the son of the first respondent. Therefore, since there is substantial representation on the side of the defendants, this Court is taking up the main Civil Revision Petition, notwithstanding the non-completion of service on the first respondent.

5.Since, the main suit schedule itself was allowed to be amended, there cannot be any justification in refusing permission to amend the schedule in I.A.No.952 of 2015.

6.In view of the same, the orders impugned in these Civil Revision Petitions are set aside. Accordingly, these Civil Revision Petitions are allowed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(AD-I)

/True Copy/



To

1. Distict Munsif,
Kulithalai.

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2. Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. **(2 copies)**

+1CC to Mr.K.Govindarajan, Advocate, SR.No.84946

+1CC to the Special Government Pleader SR.Nos.84746,84747

C.R.P. (NPD) (MD) .Nos.1812 and 1813 of 2016
and

C.M.P. (MD) No.8724 of 2016

17.09.2018

PNN

ES/SKN/RSK/SAR 4/25.10.2018/3P/6C