



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.10.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD).No.1904 of 2016

1. Vadamalu
2. Raveendran
3. Veerapathiran
4. Rakku @ Rakkammal
5. Rathinam
6. Lakshmi

...Revision Petitioners/
Respondents 2 to 4 & 6 to 8/
Defendants 2 to 4 & 6 to 8

Vs.

1. Sangili Chettiar
2. The Commissioner,
Cumbum Municipality,
Cumbum.

... 1st Respondent/Petitioner/
Plaintiff

... 2nd Respondent/5th Respondent/
5th Defendant

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to allow the Civil Revision petition and set aside the fair and decreetal order dated 12.04.2016 made in I.A.No.13 of 2013 in O.S.No.282 of 2006 on the file of the District Munsif Court, Uthamapalayam.

For Petitioners	: Mr.A.Arumugam, for M/s.Ajmal Associates.
For R-1	: Mr.R.Suriyanarayanan
For R-2	: No appearance.

O R D E R

The defendants in O.S.No.282 of 2006 on the file of the District Munsif Court, Uthamapalayam, are the Revision petitioners herein. The suit was filed for the relief of declaration, recovery of possession and mandatory injunction. In the said suit, I.A.No.13 of 2013 was filed for amending the plaint. The Court below by the impugned order dated 12.04.2016 allowed the said Interlocutory application. Questioning the same, this Civil Revision petition has been filed.

<https://hcservices.ecourts.gov.in/hcservices/>

2. Heard the learned counsel on either side.



3. The order in question is liable to be set aside for two reasons. The first reason is that the Court below has not taken note of the requirement of due diligence that is to be met in the case of post-trial amendments. Secondly, as many as 158 changes are sought to be made in the plaint. The mind of the Court literally boggles at the 158 changes now sought to be made. After making as many as 158 amendments, this Court wonders what will remain in the original plaint. Therefore, on this ground, the order impugned in this Civil Revision petition is liable to be set aside. The Civil Revision petition stands allowed, accordingly.

4. At this stage, the learned counsel appearing for the plaintiff submits that he may be permitted to withdraw the suit with liberty to file a fresh one on the same cause of action. Liberty is granted. If the plaintiff files such an application before the Court below, the Court below shall permit the plaintiff to withdraw the suit with liberty to file a fresh one on the same cause of action. It is seen that the earlier suit was filed in December 2006 and therefore, the new suit if filed immediately will also be well within the limitation, as far as the reliefs of declaration and recovery of possession are concerned. No costs.

Sd/-

Assistant Registrar(CS I)

/True Copy/

Sub Assistant Registrar(CS I)

pmu
To

1. The District Munsif,
Uthamapalayam.

2. The Record Keeper, V.R. Section,
Madurai Bench of Madras High Court, Madurai.

1CC TO MR. R. SURIYANARAYANAN, ADVOCATE SR 89525

1CC TO M/S. AJMAL ASSOCIATES, ADVOCATES SR 89381

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