



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED: 20.08.2018

CORAM :

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**  
**C.R.P. (PD) (MD)No.2291 of 2016**  
**and**  
**C.M.P. (MD) .No.10549 of 2016**

S.Chandrasekaran

... Petitioner/Petitioner/Plaintiff

vs.

T.Thanapal

... Respondent/Respondent/ Defendant

**PRAYER:** Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 26.08.2016 made in I.A.No.70 of 2015 in O.S.No.498 of 2016 on the file of the I-Additional District Munsif, Nagercoil.

For Petitioner : Mr.T.Lajapathi Roy

For Respondent : Mr.M.P.Senthil

**ORDER**

The plaintiff in O.S.No.498 of 2016 on the file of the I-Additional District Munsif, Nagercoil is the revision petitioner herein. The suit has been filed for demarcation, for recovery of possession and for mandatory injunction. Immediately after the trial commenced, the plaintiff wanted to include an item of property. According to the plaintiff, the defendant encroached a cent of land in the year 2005 and that in order to include the said item also in respect of recovery of possession, the said IA was filed. The Court below dismissed the same. Questioning the said order, this civil revision petition has been filed.

2. Heard the learned counsel on either side.

3. This Court is of the view that since already a suit for demarcation and recovery of possession had already been filed permitting the plaintiff to add another item of property said to be the encroached portion measuring an extent of 1 cent will only avoid multiplicity of litigation. The learned counsel for the respondent pointed out that in the guise of amendment, the actual extent of land that sought to be included is not 1 cent, but 36 cents. However, the learned counsel has pointed out that the suit is for demarcation and that the plaintiff is very clear that the encroached portion measured only one cent as far as the amendment is concerned. Therefore, leaving all the issues such as limitation to be contested in the main suit, the order impugned in this civil revision petition is set aside and the Civil Revision Petition is



allowed. Since the suit is of the year 2006, the Court below is directed to conclude the suit within a period of six months from the date of receipt of a copy of this order.

4. It is needless to mention that since the petitioner has been allowed to amend the plaint, the defendant shall have the right to file an additional written statement and additional issues also will have to be framed.

Sd/-  
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

The I Additional District Munsif,  
Nagercoil.

Copy to:

The Section Officer,  
V.R.Section, (2 Copies)  
Madurai Bench of Madras High Court,  
Madurai.

+1cc to Mr.M.P.Senthil, Advocate SR.No.79342

Pjl

MK/SV/SAR 4/11.09.2018/2P/5C

**C.R.P. (MD) No.2291 of 2016**  
**20.08.2018**