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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) (PD) No.2307 of 2016

and

C.M.P. (MD) No.10627 of 2016

Sekar ...Petitioner / Petitioner / Plaintiff
/Vs./

1.Ramanathan
2.Thangavelu
3.Ganesan
4.Viswanathan
5.Kannaiah
6.Lakshmi
7.Kalimuthu
8.Durairasu
9.Palani
10.Selvaraj
11.Indhira
12.Govindhammal
13.Tamilarasi
14.Jeyakodi
15.Thangamuthu
16.Venkatachalam @ Raja
17.Balasubramaniam
18.Manjula

...Respondents / Respondents / Defendants

[Respondents 1,6 to 16 are already set exparte in the lower Court.
Hence they are given up]

Prayer: Civil Revision Petition - filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 13.06.2016 passed in I.A.No.456 of 2016 in O.S.No.91 of 2010 on the file of the learned District Munsif Court, Pudukkottai, by allowing this revision petition.

For Petitioner : Mr.G.Mathavan
for M/s.V.S.Badrinath
For R2 to R5 : Mr.R.Suriya Narayanan
For R1, R6 to R18 : Memo filed USR 1110-given up

**ORDER**

The plaintiff in O.S.No.91 of 2010 is the revision petitioner herein. The revision petitioner filed the said suit seeking the relief of declaration and permanent injunction. He also sought for the recovery of possession in the alternative. After the trial commenced, the plaintiff wanted to incorporate the relief of mandatory injunction. I.A.No.456 of 2016 was filed and the same was dismissed by the Court below. Questioning the correctness of the said order, the civil revision petition has been filed.

2. This Court is of the view that interest of justice will be better served by permitting the petitioner to amend the plaint in question. But then, the amendment will go into effect only from the date of filing of I.A.No.456 of 2016. In other words, it will not relate back to the date of the institution of the suit. The defendants are at liberty to file an Additional written statement. They can raise the plea of limitation. Issue of limitation will be decided in the main suit itself. Accordingly, the civil revision petition is partly allowed. No costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS-II)

To

The District Munsif, Pudukkottai.

+1 CC To MR.G.MATHAVAN, Advocate SR. NO.83253

+1 CC To MR.R.SURIYANARAYANAN, Advocate SR. NO. 83828

Order made in
C.R.P. (MD) (PD) No.2307 of 2016
10.09.2018

SM

TR/SKN/SAR-II (08.10.2018) 2P 4C