



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 28.08.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

C.R.P.PD[MD]Nos.486 & 487 of 2016
and
C.M.P.[MD]No.2097 of 2016

N.Athappan (Died)

1.Chinnammal

2.Kuppusamy

3.Selvi : Petitioners/Respondents 2 to 4/Defendants 2 to 4 in
both CRPs.

Vs.

1.Sengottarayan

2.Subiramani : Respondents/Petitioners/Plaintiffs in both CRPs.

COMMON PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India, praying to set aside the orders dated 18.01.2016 made in I.A.Nos.927 & 928 of 2015 in O.S.No.199 of 2008 respectively, on the file of the District Munsif Court, Ottanchathiram and allow these Civil Revision Petitions.

For Petitioners : Mr.R.Vijayakumar
For Respondents : No appearance
[In both CRPs.]

COMMON ORDER

The defendants 2 to 4 in O.S.No.199 of 2008 on the file of the District Munsif Court, Ottanchathiram are the revision petitioners herein. The suit is one for declaration of permanent injunction. The suit was instituted way back in the year 2008. After evidence on either side was let in and the matter was posted for arguments, I.A.No.927 of 2015 came to be filed for reopening the plaintiff side and I.A.No.928 of 2015 was filed for amending the plaint. Both the Interlocutory Applications were allowed by the Court below. Questioning the same, these Civil Revision Petitions have been filed.

2.As rightly pointed out by the learned Counsel appearing for the revision petitioners, the Court below in paragraph No.13 of the order dated 18.01.2016, in I.A.No.928 of 2015, had categorically found that the yardstick set out in Proviso to Order VI Rule 17 of CPC has not been satisfied in this case. Having given such a specific finding, the Court below ought to have dismissed the Interlocutory Application straightaway. The Court below after finding that the plaintiffs have not shown due diligence ought not to have granted the relief sought for in the Interlocutory



Application. The two are self contradictory. Hence, orders impugned in these Civil Revision Petitions are set aside.

3. The Civil Revision Petitions are allowed, accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

/True copy/

Sd/
Assistant Registrar (RTI)

Sub Assistant Registrar (CS-I)

To

The District Munsif Court,
Ottanchathiram.

+1cc to Mr.R.VIJAYAKUMAR, Advocate, SR.No. 80560

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MR
KK/SKN/SAR-1/09.10.2018/2P-3C