



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.09.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.2049 of 2018 (PD)

and

C.M.P.(MD)No.9045 of 2018

Palus

... Petitioner/Petitioner/Plaintiff
Vs.

1.Ammukutty

2.V.Dhas

3.The Sub Registrar,
Parassala Registration Office,
Neyyattinkara Taluk,
Trivandrum District,
Kerala State.

4.The District Collector,
Trivandrum District,
Kerala State.

... Respondents/Respondents/Defendants

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order passed in I.A.No.101 of 2018 in O.S.No.41 of 2015, dated 06.07.2018, on the file of the Principal District Munsif Court, Kuzhithurai.

For Revision Petitioner : Mr.E.K.Jihn Victor Ellis

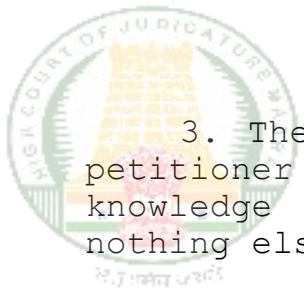
For Respondent No.3 : Mr.M.Murugan,
Government Advocate

For Respondent No.4 : Mr.M.Karuppasamy,
Government Advocate

ORDER

Heard the learned Counsel appearing for the respective parties.

2. The plaintiff in O.S.No.41 of 2015 on the file of the Principal District Munsif Court, Kuzhithurai, is the petitioner herein. The petitioner filed I.A.Nos.100 & 101 of 2018, for reopening the case and for amending the plaint. The Court below, by common order dated 06.07.2018, dismissed the same. Questioning the order passed in I.A.No.101 of 2018, this civil revision petition has been filed.



3. The Counsel for the petitioner submitted that all that the petitioner wants to do is to include a sentence that 'he got the knowledge of the document in question only on 30.01.2013' and nothing else.

4. The petitioner has two impediments to cross. The first one is that the trial in the suit is already over and the matter is now at the stage of arguments. Therefore, the petitioner will have to satisfy the requirement of the proviso to Order 6 Rule 17 CPC. In other words, the petitioner will have to show as to why he could not apply for this amendment earlier. In the affidavit filed in support of the I.A., in question, there is no explanation, whatsoever, in this regard. Thus, the requirement of the proviso is not fulfilled in this case. Since the evidence of other side already got completed, the petitioner rightly filed I.A.No.100 of 2018 for reopening the case. I.A.No.101 is for amendment. Both I.A.s, were dismissed. The petitioner has not challenged the order dismissing I.A.No.100 of 2018. Therefore, this civil revision petition is technically barred.

5. In any event, the Court below has observed that the rights of the petitioner will not be prejudiced on account of the dismissal of I.A.Nos.100 & 101 of 2018. Since the Court below itself has made such an observation, the petitioner cannot be said to be a person aggrieved. Hence, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(WRITS)

/True Copy/

Sub Assistant Registrar(CS-I)

gk

To

The Principal District Munsif,
Kuzhithurai.

+1cc to Mr.E.K.John Victor Ellis, Advocate in SR No.85426

C.R.P. (MD) No.2049 of 2018 (PD)
and
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NM/RSK/SAR I/25.11.18/2P/3C.