

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.06.2019

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THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

**CRP(NPD) No.1 of 2016 &
CMP.No.2 of 2016**

Parandhaman

.. Petitioner

-VS-

1. Amara Jothi,
2. Alli

.. Respondents

Prayer: Civil Revision Petition under Article 227 of Constitution of India praying to set aside the order passed in I.A.No.119 of 2014 in A.S.No.52 of 2010 dated 05.11.2018 on the file of Subordinate Judge, Ponneri.

For Petitioner : Mr. K.P. Chandrasekaran

For respondents : No appearance

ORDER

The Revision Petitioner is the plaintiff. He filed a suit in O.S.No.132 of 2005 before the District Munsif, Thiruvottiyur for permanent injunction restraining the respondents/defendants from alienating the suit property. The trial Court dismissed the suit, against which, an appeal has been preferred by the petitioner in A.S.No.52 of 2010 before the Subordinate Judge, Ponneri and the same is pending.

2. During the pendency of the appeal, the petitioner filed an application in I.A.No.119 of 2014 seeking to amend the plaint in O.S.No.132 of 2005 and

M.GOVINDARAJ, J.

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convert the suit that was laid for permanent injunction into one of suit for specific performance. That application was dismissed by the lower appellate court on the ground that the petitioner sought to amend the plaint in appeal stage and if the amendment is allowed, it would cause prejudice to the respondents, against which, the petitioner filed the above Civil Revision Petition.

3. Admittedly, the sale agreement is of the year 1990. The Revision petitioner has to file the suit for specific performance within a period of three years from the date of sale agreement, but instead of that, he filed only a suit for permanent injunction and at the appeal stage, he want the suit to be converted in to a suit for specific performance.

4. In the above stated circumstances, the entire nature of the suit would be changed, if the amendment is allowed. Therefore, this Court is of the view that the lower appellate court has rightly dismissed the petition for amendment. Hence the Civil Revision Petition merits no consideration and is accordingly dismissed. No costs. Consequently, connected CMP.No.2 of 2016 is closed.

07.06.2019

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Index:Yes/No
Internet:Yes/Non speaking order/non speaking order
To
The Subordinate Judge, Ponneri.

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