

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE C.S. SARAIVANAN

C.R.P.(PD)No.3891 of 2014

and

M.P.No.1 of 2014

Manivasagam

Petitioner

Vs

Govindasamy

Respondent

Prayer:

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 19.09.2014 made in I.A.No.198 of 2012 in O.S.No.318 of 2008 on the file of the Additional District Munsif Court, Villupuram.

For Petitioner : Mr.N. Manokaran

For Respondent : No appearance

ORDER

The petitioner herein is the defendant in O.S.No.318 of 2008 before the learned Principal District Munsif, Villupuram. The petitioner and the respondent are brothers. The respondent herein had filed a suit before the Court below for the relief of declaration to declare that he has an exclusive title to the suit schedule property and for consequential

permanent injunction to restrain the petitioner herein interfering with the peaceful possession and enjoyment of the suit property. The respondent had filed 16 documents in respect of the same. The petitioner herein filed a written statement and pursuant to the written statement, the issues were framed and the evidence was recorded partly. At that stage, the respondent/plaintiff filed a petition under Order VI Rule 17 of CPC to amend the plaint and thereafter, the Trial Court passed the fair and decretal order in I.A.No.198 of 2012 and the same was allowed on 19.09.2014. The proposed amendment which was allowed by the Court below, reads as under:-

Amendment sought for 1) at the end of para III (6) add the following:

"The plaint submits that any any event the alleged sale deed dated 27.04.1992 is totally invalid as there is neither price paid or promised or part paid and part promised. The alleged sale deed merely recites for the alleged undertaking under the letter dated 06.05.1980 to give some extent of land to the defendant the amount of Rs.5,000/- was adjusted and the sale deed was allegedly executed. The plaintiff submits that the defendant wanted to grab the property even without payment of price for the alleged sale. The plaintiff specifically denies that he had not given any such letter either on 06.05.1980 or on any other date. The plaintiff submits since the parties to the sale do not

contemplate to payment of the price, the transaction would be without consideration and would be void”

2. The Trial Court had allowed the above interlocutory application with the observation, that as to whether there was any payment of consideration or not the matter has to be decided only in the suit and no prejudice would be caused to the respondent in allowing the application to amend the plaint.

3. The learned counsel appearing for the petitioner submitted that the proposed amendment is contrary to Article 54 of the Limitation Act, inasmuch as the sale deed dated 27.04.1992 has been questioned in the suit. Without amendment to the consequential prayer, the respondent/plaintiff has not satisfied the requirement under Order VI, Rule 17 of CPC.

4. Heard and perused the impugned order passed by the Trial Court and proposed amendment which is extracted as above.

5. The amendment does not materially alters, the plaint and in any event, the plaintiff has also not sought for any consequential amendment, to the relief already claimed in the plaint. The present Civil

Revision Petition is of the year 2014 and stay has been operating against the parties to proceed further before the Trial court. No useful purpose will be served in delaying the trial and final conclusion of the case before the learned Principal District Munsif, Villupuram in O.S.No.318 of 2008. Hence, the Trial Court is directed to take up the case in O.S.No.318 of 2008 as expeditiously as possible and conclude the trial and dispose of the suit within a period of six months from the date of receipt of a copy of this Order. The petitioner is at liberty to raise all legal grounds which are available to him before the Trial Court. It is made clear that based on the proposed amendment, the petitioner shall not be entitled to make further amendments in the prayer.

6. With the above observations, the Civil Revision Petition is disposed of. No costs. Consequently, connected M.P.No.1 of 2014 is closed.

08.02.2019

vrn/msm

Speaking Order : Yes/No

Internet : Yes/No

Index : Yes/No

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To

The Additional District Munsif Court,
Villupuram.



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C.S. SARAVANAN,J

vrn/msm



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