

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2019

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

CRP (PD) NO.2640 OF 2019

AND

CMP NO.17452 OF 2019

M.Sethumahadevan

... Petitioner

Vs.

1.Ramayee
2.Pavathal
3.N.P.Samiappan
4.K.Sengottaian
5.R.Meyyazhagi

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order dated 10.07.2019 in I.A.No.3 of 2019 in O.S.No.210 of 2013 on the file of I Additional District Munsif Court, Erode.

For Petitioner :
For Respondent-2 :

Mr.S.Kaithamalai Kumaran
Mr.I.C.Vasudevan

ORDER

The petitioner filed a suit for mandatory injunction for removing the unauthorised construction and for permanent injunction restraining the respondents from interfering with his peaceful possession and enjoyment. The respondents filed a written statement in November 2013. The Trial Court has concluded the trial and the matter was reserved for judgment. At that stage, an interlocutory application was filed seeking amendment of the plaint for including the prayer of recovery of possession. The Trial Court dismissed the interlocutory application, as it is time barred and highly belated, by its order dated 10.07.2019. Aggrieved over the same, the petitioner is before this Court.

2. Heard the submissions made on either side and perused the materials available on record.

3. Admittedly, the prayer in the suit is for permanent injunction restraining the respondents from interfering with the peaceful possession and enjoyment of the petitioner/plaintiff. It is not the case of the plaintiff that the defendants have encroached the property after the

institution of the suit. While it is the case of the petitioner that he is in possession, the contrary prayer of recovery of possession after completion of trial is not sustainable. The Trial Court has rightly considered the issue that the amendment may change the nature of the suit and accordingly, dismissed the same. I do not find any infirmity in the order passed by the Trial Court.

4. In fine, the Civil Revision Petition is dismissed. No costs. Consequently, connected civil miscellaneous petition is closed.

19.08.2019

Index : Yes/No
Internet : Yes/No
TK

To

The First Additional District Munsif
Erode.

M.GOVINDARAJ, J.

TK



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