

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

C.R.P.No.4165 of 2019
and
C.M.P.No.27119 of 2019

1. S.Mohammed Ansar
2. S.Anwar Deen
3. S.Akbar Ali

.. Petitioners/Defendants
1 to 3

Vs.

1. Lourdes Ville Residency & Amusements,
A registered partnership firm,
Registered as Firm No.1/2015,
at the office of the Registrar of Firms,
Udhagamandalam,
Rep by its Managing partner,
S.I.Habibullah, aged about 84 years,
S/o.Sheik Ismail,
Door No266-A, Old Paickara Road,
Thiruvalluvar Colony, Kandal,
Ootacamund.

.. Respondent/Plaintiff

2. Udhagamandalam Municipality
as Statutory Body constituted under the
TN District Municipalities Act, 1920,
Represented by its Commissioner,
Udhagamandalam, Municipal Office,
Ootacamund, Nilgiris District.

.. Respondents/4th
Defendant

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and final order dated 16.08.2019 made in I.A.No.1 of 2019 in O.S.No.27 of 2018 on the file of the learned District Judge of The Nilgiris at Udhagamandalam.

For Petitioners : Mr.V.Rajesh

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O R D E R

Present revision has been filed against the order allowing an application filed by the first respondent/plaintiff under Order VI Rule 17 of C.P.C. to amend the plaint.

2. Originally, the first respondent/plaintiff filed a suit for recovery of possession of 650 sq.ft of land and for damages. Pending suit, the first respondent/plaintiff filed an application under Order VI Rule 17 of C.P.C. on ground that additional encroachments have taken place to an extent of 208.25 sq.ft. of land by putting up zinc sheet shed and hence he seeks to amend the prayer in the plaint for recovery of possession in respect of 858.25 sq.ft instead of 650 sq.ft. and also consequential amendments regarding Court Fees and damages. The trial Court allowed the said application. Challenging the same, present revision has been filed.

3. Heard the learned counsel appearing for the petitioners and also perused the records carefully.

4. Learned counsel appearing for the petitioners submitted that when the suit was originally filed, the extent of trespassed land was 650 sq.ft. and that pending suit, further encroachments to an extent of 208.25 sq.ft. have taken place. Hence, he wants to amend the prayer seeking to recover a total extent of 858.25 sq.ft. instead of 650 sq.ft. The trial Court allowed the application on the ground that amending the prayer would not change the nature of the suit and it would avoid multiplicity of proceedings. This Court does not find any illegality or irregularity in the same as the trial Court has rightly allowed the application. There is no merit in the revision and the same is liable to be dismissed.

5. In the result, the civil revision petition is dismissed and the fair and final order of the Court below, impugned in this revision petition, are hereby confirmed. Considering the fact that the suit is pending from the year 2018, the learned District Judge, The Nilgiris at Udthagamandalam, is directed to dispose of the suit in O.S.No.27 of 2018, on merits and in accordance with law, after giving opportunity to both the parties, within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kk

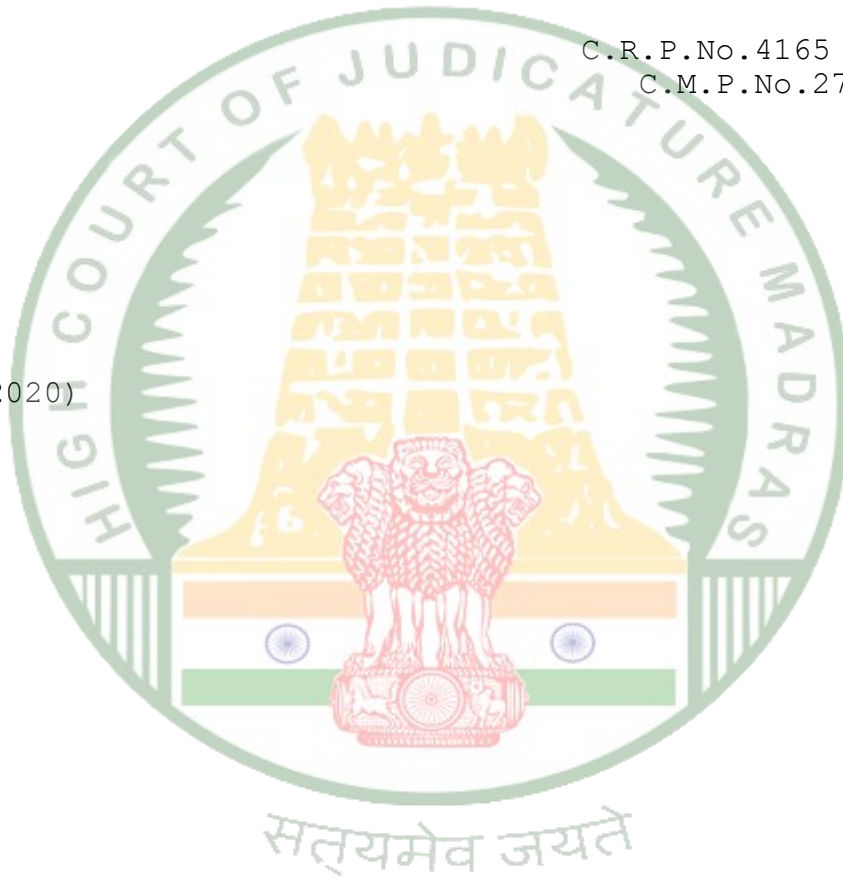
To

The District Judge,
The Nilgiris at Udhagamandalam.

+1cc to Mr.V.Rajesh, Advocate, Sr.No.105592

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NMI (CO)
GS (17/07/2020)



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