



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 18.10.2019
CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

C.R.P (PD) (MD)No.1202 of 2012
and
M.P. (MD) .No.1 of 2012

A.Arockiadass ... Petitioner / Respondent/Defendant
Vs.

A.Jeyaraj ... Respondent / Petitioner/Plaintiff

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and final order, dated 02.03.2012 in I.A.No.839 of 2010 in O.S.No.292 of 2007, on the file of the Additional District Munsif, Dindigul.

For Petitioner : Mr.H.Lakshmi Shankar
For Respondent : Mr.D.Selvaraj

ORDER

This Civil Revision Petition has been filed challenging the fair and final order passed by the Court below allowing the application filed under Order VI Rule 17 of the Civil Procedure Code, to amend the plaint.

2. The respondent/plaintiff filed a suit against the petitioner seeking for the relief of permanent injunction. The petitioner also filed written statement. The suit was instituted in the year 2007.

3. During the pendency of the proceedings, in the year 2010, the respondent filed an application under Order VI Rule 17 of the Civil Procedure Code, seeking for amendment of the plaint in order to add/delete/seek for additional relief of declaration and to pay the appropriate court fee. This petition was opposed by the petitioner, on the ground that the amendment completely changes the very structure of the suit and also the cause of action. The Court below has allowed this application and aggrieved by the same, the present petition has been filed before this Court.

4. The learned counsel for the petitioner submitted that the relief as sought for by the respondent for declaration of title is clearly barred by limitation, since it has been filed beyond three years from the time, when the right to sue first accrued. The



learned counsel for the petitioner further submitted that the Court below did not go into this issue and has proceeded to allow the application in a casual manner and therefore, the order requires interference.

5. Per contra, the learned counsel for the respondent submitted that the Court below has considered each and every objection that was raised by the petitioner and has given sufficient reasons for allowing the application and therefore, there is no ground to interfere with the order passed by the Court below.

6. This Court has carefully considered the submissions made on either side and the materials available on record.

7. A careful reading of the order passed by the Court below shows that the Court below has taken into consideration the fact that some of the amendment that has been sought for is only to correct the typographical errors. Insofar as the issue of limitation is concerned, the Court below has found that the respondent is already claiming to be in possession of property and since the petitioner is attempting to create a cloud over his title, it has necessitated the respondent to seek for the relief of declaration of title. Therefore, the Court below has categorically found that such an amendment is required, since, ultimately, if there is a dispute regarding the status for which the declaration has been sought for, without the relief of declaration, the same cannot be considered by the lower court. Therefore, the Court below was right in allowing the application. The amendment, in the considered view of this Court, does not change the structure of the suit or the cause of action. The petitioner will always get an opportunity to file his written statement in the amended plaint and he will not be put to any prejudice in this case.

8. The Court below has properly applied its mind and passed the fair and final order and this Court does not find any irregularity or infirmity in the order passed by the Court below.

9. In the result, the fair order and final order passed by the Court below is hereby sustained and the Civil Revision Petition is dismissed and the Court below is directed to complete the proceedings in O.S.No.292 of 2007, within a period of three months from the date of receipt of a copy of this order. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //



To

The Additional District Munsif,
Dindigul.

+1 CC to Mr.H.LAKSHMI SHANKAR, Advocate (SR-93254[F] dated
21/10/2019)

C.R.P (PD) (MD)No.1202 of 2012
18.10.2019

pjl

MK (05.11.2019) 3P 3C