



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:25.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRP. (MD) .Nos.690 of 2012 (PD)

and

M.P. (MD) .No.1 of 2012

Ramachandran

.. Petitioner/Petitioner/Plaintiff
Vs.

1.G.Leethiyal

2.Perumal @ Gopal

3.Samuvel

4.The Sub Inspector of Police,

Virudhunagar Police Station (Rural),

Virudhunagar.

.. Respondents/Respondents/Defendants

PRAYER: This Petition filed under Article 227 of the Constitution of India to set aside the order dated 24.11.2011 passed in I.A.no.509 of 2011 in O.S.No.138 of 2007, by the learned District Munsif of Virudhunagar and allow the Revision Petition.

For Petitioner : Mr.V.Nagendran

For R1 to R3 : Mr.N.Dilip Kumar

For R4 : Mr.R.Sethuraman

Additional Government Pleader

O R D E R

This Civil Revision Petition has been filed against the fair and final order passed by the Court below dismissing the application filed by the petitioner to amend the plaint filed under order 6 Rule 17 of the Code of Civil Procedure. The petitioner filed a suit before the Court below seeking for the relief of declaration to declare the sale deed dated 07.03.2007 as null and void and for consequent permanent injunction restraining the defendants not to interfere with the possession and enjoyment of the property. The defendants filed a written statement and pleadings were completed.

2. The petitioner filed an application under Order 6 Rule 17 of the Code of Civil Procedure to amend the plaint and to seek for the relief of possession on the ground that during the pendency of the suit, the second defendant had forcibly taken possession of



the property and that a complaint was also given to the Police on 22.05.2008.

3. The Court below while considering the application dismissed the Amendment Petition on the ground that there is absolutely no cause of action that was pleaded by the petitioner to justify the amendment of the plaint and even the Court fees as sought to be paid is not under Section 25(a) of the Act and it is sought to be paid under Section 25 (c) of the Tamil Nadu Court Fees and Suits Valuation Act.

4. The learned counsel appearing for the petitioner submitted that the Court below ought to have allowed the amendment petition, since the cause of action that was pleaded was an incident which took place after filing of the suit, whereby, the second defendant had forcibly taken the possession of the property. The learned counsel further submitted that merely because a wrong provision mentioned by payment of Court fee, the Court below ought not to have dismissed the petition and direction could have been given to the petitioner to pay appropriate Court fee under Section 25 (a) of the Tamil Nadu Court Fees and Suits Valuation Act.

5. The learned counsel appearing on behalf of the respondents 1 to 3 submitted that the amendment that was sought for, was done even without mentioning the exact cause of action. Nowhere in the amendment, the petitioner states as to when he was dispossessed. The only reference that has been made in the pleadings is a Police complaint that was given to the fourth respondent on 22.05.2008. The learned counsel further submitted that this by itself cannot be a ground to seek for amendment of pleadings, even without mentioning the date on which the petitioner was dis-possessed.

6. The learned counsel appearing for the fourth respondent adopted the arguments made by the learned counsel appearing for the respondents 1 to 3 and prays this Court to dismiss the Civil Revision Petition.

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

8. The only issue that needs consideration of this Court is as to whether the petitioner has made out a case to justify allowing the petition for amendment of the plaint. The petitioner states that he was dispossessed by the second defendant during the pendency of the suit. There are absolutely no particulars as to when the petitioner was dispossessed by the second defendant. There is only reference to a Police complaint that was given to the fourth respondent on 22.05.2008. This amendment petition came to be filed



in the year 2011. There is absolutely no cause of action made out to justify the amendment of pleadings and to seek for appropriate relief. Without the minimum particulars as to when and how the petitioner was dispossessed from the property, the amendment of pleadings cannot be allowed.

WEB COPY 9. This Court does not find any illegality or infirmity in the order passed by the Court below and the Court below has given cogent reasons for dismissing the application. There are no grounds to interfere in this Civil Revision Petition and the same stands dismissed. The Court below is directed to complete the proceedings in O.S.No.138 of 2007, within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

Sub Assistant Registrar(CS)

tsg

To

1.The District Munsif Court, Virudhunagar.

2.The Sub Inspector of Police,
Virudhunagar Police Station (Rural),
Virudhunagar.

3.The Record Keeper,VR Section
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1 cc Mr.N.DILIP KUMAR ,Advocate, SR.No.89577

+1cc to M/s.Special Government Pleader,SR.No.89798

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25.09.2019

TSG

KK/SAR/10.10.2019/3P-7C/