



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2019

CORAM

THE HON'BLE MR.JUSTICE **S.S.SUNDAR**

WEB COPY

C.R.P (PD) (MD) No.282 of 2011

and

M.P. (MD) No.1 of 2011

1.Reeta Preeze

2.Pattar Ammal

: Petitioners/Petitioners/Plaintiffs

.. Vs ..

1.Selvi

2.Sridhar

3.Selvaraj

4.Junior Engineer (Distribution),
Tamil Nadu Electricity Board,
Kayamozhi, Thoothukudi District.

5.Executive Engineer (Distribution),
Tamil Nadu Electricity Board,
Tiruchendur, Thoothukudi District.

: Respondents/Respondents/Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and deretal order passed in I.A.No.441 of 2010 in O.S.No.89 of 2010, on the file of Additional District Munsif Court, Tiruchendur dated 07.12.2010.

For Petitioners : Mr.M.P.Senthil

For respondents : Mr.G.Aravindan

1 to 3

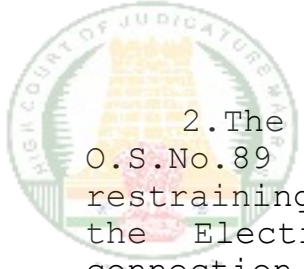
For Respondents : Mr.M.Suresh Kumar

4 and 5

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ORDER

This Civil Revision Petition is preferred as against the order passed in I.A.No.441 of 2010 in O.S.No.89 of 2010 by the Additional District Munsif, Tiruchendur.



2.The revision petitioners are the plaintiffs in the suit in O.S.No.89 of 2010. The suit was filed for bare injunction restraining the respondents 4 and 5 herein, namely, the officials of the Electricity Department from extending electricity service connection to the defendants 1 to 3. The plaintiffs claim right as co-owners in respect of certain properties and therefore, they wanted to protect their right and avoid giving electricity service connection to the defendants 1 and 3 till such time a partition takes place between them in respect of the joint family properties. It is stated that during the pendency of the suit, the electricity service connection was extended to the defendants 1 to 3 by the respondents 4 and 5. After coming to know about the service connection being extended to the defendants 1 to 3, the revision petitioners filed a petition in I.A.No.441 of 2010 to amend the plaint to include the prayer for mandatory injunction. By amendment a new prayer has been introduced in the plaint for mandatory injunction to disconnect the service connection extended to the buildings put up by the defendants 1 to 3 during the pendency of the suit. The petition was dismissed by the trial Court on the ground that the partition suit is pending and that the revision petitioners have not given details about the door numbers and the details of the service connection to be disconnected. Since no relief has been specifically prayed, the trial Court dismissed the petition. This Court is unable to accept the view taken by the lower Court. It is admitted that during the pendency of the suit, the electricity service connection was given in favour of the defendants 1 to 3. Since the plaintiffs are entitled to ask for relief based on subsequent events happened during the pendency of the suit, the Court has got absolute power under Order 6, Rule 17 C.P.C. to take note of the subsequent events to modify relief. In such circumstances, the prayer for amendment is only consequential. The defendants cannot oppose the application taking advantage of their own wrong.

3.In that view of the matter, this Civil Revision Petition is allowed and the order passed by the lower Court in I.A.No.441 of 2010 is set aside. The application filed by the plaintiffs in I.A.No.441 of 2010 stands allowed. It is open to the defendants to file additional written statement. The Trial Court is directed to dispose of the suit as expeditiously as possible preferably 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 /



To

The Additional District Munsif Court,
Tiruchendur.

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-68654[F] dated 14/06/2019)

+1 CC to M/s.G.ARAVINTHAN, Advocate (SR-69295[F] dated 17/06/2019)

C.R.P (PD) (MD) No.282 of 2011
13.06.2019

ES/05.07.2019/3P/4C