



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.03.2019

CORAM :

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

C.R.P. (PD) (MD) No.1549 of 2013

and

M.P. (MD) No.1 of 2013

Ganapathy Ammal

:Petitioner

vs.

Sundaramoorthy

:Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, against the order dated 26.11.2012 passed in the application in I.A.No.407 of 2012 in O.S.No.78 of 2006 by the learned District Munsif, Ramanathapuram.

For Petitioner

:Mr.J.Bharathan

For Respondent

:Mr.P.Vairava Sundaram

ORDER

This Civil Revision Petition is directed against the order passed by the learned District Munsif, Ramanathapuram, in I.A.No.407 of 2012 in O.S.No.78 of 2006.

2.It is not in dispute that the revision petitioner has filed the suit for bare injunction in O.S.No.78 of 2006 before the District Munsif Court, Ramanathapuram. It is also not in dispute that the defendant claims title to the property. It was, therefore, the plaintiff states that he was prompted to file an application for amendment of plaint to include the prayer for declaration of title. Since the said application was filed six years after the suit was filed, the trial Court Court dismissed the said application. Therefore, the plaintiff has preferred the above revision petition.

3.It is now represented before this Court that the suit filed by the plaintiff for bare injunction was also decreed in her favour and that the respondent / defendant has preferred an appeal in A.S.No.3 of 2016 before the Subordinate Court, Ramanathapuram. Hence, it is stated that the the revision petition has become infructuous, as the suit itself is disposed of. However, the learned Counsel for the petitioner seeks indulgence of this Court



to give liberty to the revision petitioner to file an application for amendment of plaint without prejudice to the rights of either parties.

4. Though this request need not be entertained, after dismissing the civil revision petition on the ground that the revision petition has become infructuous, this Court is of the view that the appellate Court may consider such application on merits and in accordance with law, after hearing the objections of the respondent herein. It is also open to the respondent to raise the question of limitation. The first appellate Court is at liberty to decide the appeal or application independently without being influenced by any of the observation of this Court.

5. Accordingly, the Civil Revision Petition is dismissed as infructuous. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar (CS)

To

1. The District Munsif, Ramanathapuram.

2. The Section Officer, (2 copies)
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to Mr. T.R. Jeyapalam, Advocate SR.No.55217

cmr

C.R.P. (PD) (MD) No.1549 of 2013
19.03.2019

KM/(28.03.2019) 2P 5C