

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2020

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

C.R.P. (PD) 1237 of 2015

and
M.P. 1 of 2015

M.Rajendiran

... Petitioner

Versus

1. C.Muthu
2. R.Moorthy

... Respondents

PRAYER : Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the Fair and Decretal order in I.A. 535 of 2014 in O.S. 105 of 2013, dated 07.02.2015, on the file of Principal District Munsif Court, Ambur, Vellore District.

For Petitioner : Mr.PA.Sudeshkumar

For Respondents : Mr.T.Dhanyakumar

ORDER

This Civil Revision Petition has been filed against the order allowing the application filed by the respondents/plaintiffs to amend the plaint.

2. The respondents/plaintiffs have filed a suit for declaration, and for permanent injunction in respect of the suit schedule property. Alleging that, pending suit, the petitioner/defendant has trespassed into the suit schedule property, occupied the land and put up a hut, they wanted to amend the plaint for recovery of possession. The Trial Court has allowed the application. Challenging the same, the present Civil Revision Petition has been filed.

3. Mr. PA. Sudesh Kumar, learned counsel appearing for petitioner would contend that, the petitioner has not encroached any of the property belongs to the plaintiffs. Even in the affidavit filed by the plaintiffs, they did not mention on what date, the petitioner has encroached the property, and with vague allegations, the above application has been filed. The Trial Court without considering the same, has allowed the application.

4. Per contra, Mr.T.Dhanyakumar, learned counsel appearing for respondents/plaintiffs would contend that, originally, the suit has been filed seeking permanent injunction. Pending suit, the petitioner has trespassed into the suit schedule property, occupied the land, and put up a wall, which is necessitated to amend the plaint. The Trial Court has also rightly allowed the application.

5. I have heard and considered rival submissions made by learned counsel appearing for petitioner as well as learned counsel appearing for respondents and perused the records carefully.

6. Originally, the suit has been filed for declaration and permanent injunction. According to the plaintiffs, pending suit, the petitioner/defendant has encroached the suit schedule property, occupied the land and also put up a wall. Hence, they wanted to amend the prayer in the suit seeking for recovery of possession of the suit schedule property. Considering the fact that, the defendants said to have trespassed into the suit schedule property, and in order to avoid multiplicity of litigation, the Trial Court has rightly allowed the application. I find no

illegality or irregularity in the order passed by the court below, and I find no merit in this Civil Revision Petition. Accordingly, this Civil Revision Petition is dismissed.

7. However, liberty is granted to the petitioner to file additional written statement in the suit before the court below. Further, since the suit is pending from the year 2013, the Trial Court is directed proceed with the trial, and dispose of the suit within a period of six months from the date of receipt of the copy of this order. No costs. Consequently, the connected Miscellaneous Petition in M.P. 1 of 2015 is closed.

07.01.2020

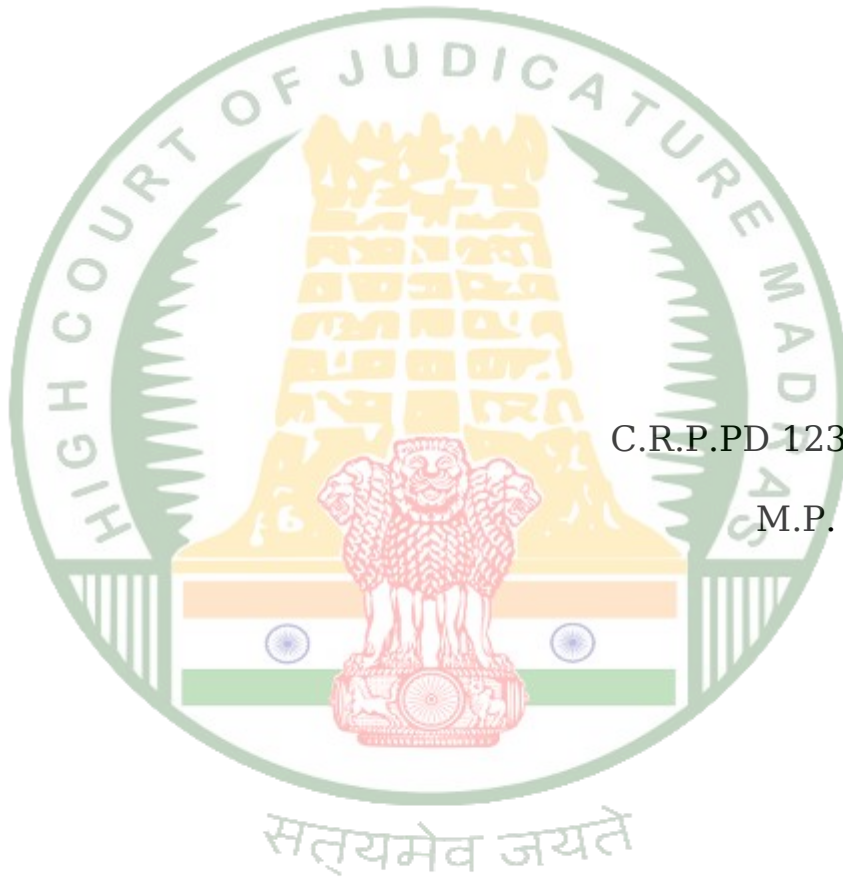
Index : Yes/No
Internet: Yes/No
Speaking/Non Speaking order
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To

The Principal District Munsif Court,
Ambur,
Vellore District.

V.BHARATHIDASAN,J.

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