

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2020

CORAM

**THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN**

**C.R.P.No.2330 of 2015**

**and**

**MP.No.1 of 2015**

1. Rajeswari  
2. Kesavan  
3. Murugavel ... Petitioners

Vs.

1. Amirthavalli  
2. Pandiyan  
3. Panneer  
4. Balu  
5. Velazhagan  
6. Sivakumar  
7. Panjalai ... Respondents

**Prayer :-** This Civil revision has been filed under Article 227 of the Constitution of India to set aside the fair and decreetal order made in I.A.No.439 of 2012 in O.S.No.41 of 2009 by an order dated 28.10.2013 passed by the learned I Additional District Munsif Court, Vridhachalam.

For petitioner : Mr. G. Pugazhenth

**ORDER**

This Civil Revision Petition has been filed against the order allowing the application filed by the first respondent/plaintiff to amend the plaint.

2. Originally, the first respondent/plaintiff, filed a suit in O.S.No.41 of 2009 on the file of the I Additional District Munsif Court, Vridhachalam for permanent injunction restraining the defendants from interfering with the peaceful possession and enjoyment of the suit schedule property. Pending suit, the plaintiff has filed an application to amend the plaint in I.A.No.4349 of 2012, seeking for declaration of title and also for recovery of possession and the trial Court, by an order dated 28.10.2013 allowed the application. Now, challenging the same, the present revision has been filed.

3. The learned counsel for the petitioners would submit that by amending the plaint, and the prayer sought in the suit will totally differ, and it creates a new cause of action and changes the nature of the suit. Hence, the amendment cannot be allowed .

4. On a perusal of the materials, it could be seen that even

though the suit was filed for permanent injunction, pending suit, alleging that the defendants had encroached part of the suit property and also doing cultivation, the first respondent/plaintiff sought to amend the suit for declaration and also for recovery of possession, however, the defendants disputed the above said fact. The trial Court, after considering the materials allowed the application holding that, as it has been alleged that the property has been encroached by the defendants, it is necessary to resolve the dispute between the parties and avoid multiplicity of litigation, the plaint should necessarily be amended and consequently allowed the application. I have carefully gone through the entire materials . I find no illegality or irregularity in the order passed by the Court below and I find no merit in the revision.

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

**11.02.2020**

mrp  
Index : Yes/No  
Internet : Yes/No  
Speaking order/non speaking order  
**To**

The I Additional District Munsif Court, Vridhachalam.



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**V.BHARATHIDASAN, J.,**

mrp



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**11.02.2020**