



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.02.2020

CORAM

THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(MD) No.2141 of 2011(PD)

and

M.P(MD)No.1 of 2011

WEB COPY

1.D.Arukkani
2.C.Palaniammal ... Petitioners/Petitioners/Plaintiffs

-Vs-

1.Olappalayam Farmers'
Lift Irrigation Society,
Rep. by its President.

2.Olappalayam Farmers'
Lift Irrigation Society,
Rep. by its Secretary,

3.Krishnan ... Respondents/Respondents/Defendants

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the Fair and Decretal order passed by the Additional District Munsif, Karur dated 09.06.2011 made in I.A.No.430 of 2011 in O.S.No.172 of 2008 and allow the revision petition.

For Petitioners : Mr.N.Shanmugaselvam
For Respondents : Mr.K.Govindarajan
Nos.1 & 2

O R D E R

This Civil Revision Petition has been filed challenging the order of the Additional District Munsif, Karur dismissing the I.A.No.430 of 2011, which was filed seeking an amendment of the plaint.

2.Originally, the suit was filed by the plaintiffs/petitioners herein seeking mandatory injunction directing the defendants to remove the blockades or obstructions made in the suit 'C' schedule pipeline and for permanent injunction restraining the defendants, their men, servants, agents from interfering with the plaintiffs' peaceful user and enjoyment of the suit 'B' schedule common pipeline.



3. The suit was resisted by the defendants contending that the plaintiffs are not entitled to the said relief of mandatory injunction and permanent injunction since the sale by the then owner to the plaintiffs on 15.02.2008 is not approved by the defendants' society.

WEB COPY

4. Pending suit, the plaintiffs sought for an amendment to include prayer for declaration that the plaintiffs are entitled to have a irrigation right through the defendants society to irrigate the 'A' schedule property by paying necessary charges. This petition was dismissed by the learned Additional District Munsif, Karur stating that it would amount to changing the nature of the suit. It should be straight away pointed out that the order of the learned Additional District Munsif, Karur is materially irregular and stress out of ignorance of law, relating to amendment of the plaint to include the prayer for declaration.

5. The suit was originally filed for permanent and mandatory injunctions. The defendants took the plea that the plaintiffs are not entitled to the right and hence, the plaintiffs chose to amend the plaint. I am at a loss to understand as to how the learned Additional District Munsif felt that it would alter the nature of the suit. Addition of prayer for declaration would neither alter the nature of the suit nor the action for the suit.

6. In view of the same, this Civil Revision Petition is allowed, order of the learned Additional District Munsif, Karur In I.A.No.430 of 2011, dated 09.06.2011 is set aside. The amendment petition in I.A.No.430 of 2011 will stand allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

am

To

The Additional District Munsif, Karur.

+1 CC to M/s.K.GOVINDARAJAN, Advocate (SR-6993[F]

C.R.P(MD) No.2141 of 2011 (PD)

18.02.2020

KM(CO)

TR(28.02.2020)2P 3C