



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.01.2020

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P. (MD) .Nos.133 of 2020

and

C.M.P. (MD) .No.762 of 2020

The Commissioner,
Theni - Allinagaram Municipality,
Theni.

... Petitioner/R1/1st Defendant

Vs.

K.S.Thangapandian (died)

1.C.Sivarengaraju
2.V.Jeyachandran
3.K.S.T.Sivaraju Pandian
4.K.S.T.Navaneethakrishnan
5.K.S.T.Shanmugaraj
6.K.S.T.Krishnakumar
7.R.Nagarani
8.K.Brindha

... R1 to R8/Petitioners/Plaintiffs 2 to9

9.The District Collector,
Theni District,
Theni.

... R9/R2/2nd Defendant

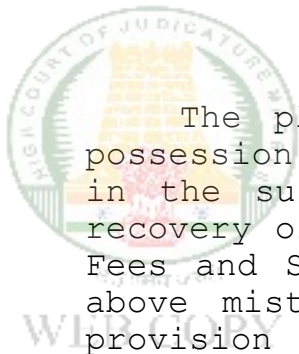
PRAYER: Civil Revision Petition is filed against the fair and final order dated 26.03.2019 and 12.04.2019 made in I.A.No.457 of 2018 in O.S.No.18 of 2014 on the file of the Sub Court, Theni.

For Petitioner	: Mr.K.Hemakarthiskeyan
For R1 to R8	: Mr.P.Mahendran
For R9	: Mr.K.Mu.Muthu
	Additional Government Pleader

O R D E R

The civil revision petition has been filed against the order of the trial Court in allowing the application in I.A.No.457 of 2018 in O.S.No.18 of 2014, to amend the plaint in respect of the Court fees and to incorporate the relevant provision of the Court Fees Act.

2. The brief facts leading to the filing of the application in I.A.No.457 of 2018 is as follows:



The plaintiffs have filed a suit originally for recovery of possession and permanent injunction not to construct any building in the suit property. However, the Court fee has been paid for recovery of possession under Section 27 (c) of the Tamil Nadu Court Fees and Suit Valuation Act. Therefore, in order to set right the above mistakes, the amendment was sought to include the correct provision of law viz., Section 43(2) of the Tamil Nadu Court Fees and Suit Valuation Act and also to include the value of the property for mesne profit. The above application was objected by the defendants on the ground that the Civil Court has no jurisdiction to decide the suit. However, the Trial Court has allowed the application.

3. Heard the learned counsel for the petitioner, learned counsel for the respondents and perused the order of the trial Court.

4. The amendment application was filed only to correct the provision of law and to pay the Court fee. Admittedly, the suit has been filed for recovery of possession and permanent injunction not to put up any construction in the suit property. The respondents said to be the owner of the property. Therefore, the amendment sought has not changed the character of the suit, but only to correct the provision of law for paying the Court fee. This Court is of the view that no prejudice whatsoever would be caused to the other side by the said amendment. Such being the position, this Court do not find any infirmity or illegality in the order passed by the trial Court.

5. It is contended by the learned counsel for the petitioner that the trial Court may be directed to frame the preliminary issue as to whether the Civil Court has jurisdiction to decide the suit or not. It is to be noted that the trial Court itself has clearly held that such view can be decided only at the time of trial.

6. In view of the same, jurisdictional issue if any can be decided along with the other issues at the time of trial. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1. The Sub Judge,
Theni.

2. The District Collector,
Theni District, Theni

+2 CC to Mr.P.MAHENDRAN, Advocate SR-3492, SR-4141

+1 CC to SPL.GP (SR-3923[F] dated 30/01/2020)

+1 CC to Mr.K.HEMAKARTHIKEYAN, Advocate (SR-3796[F] dated
29/01/2020)

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