



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.10.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

C.R.P.(PD)(MD)No.2177 of 2015

and

M.P.(MD)No.1 of 2015

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1.Z.Balkis Jakar
2.Z.Abdul Rahim
3.Z.Jameel Waris

... Petitioners/Respondents 1-3
/Defendants 1 to 3

vs.

1.S.Nazeem Banu @ Nazeem Ahamed
2.S.Rajeev Bareeth
3.S.Niyara Ahamed
4.K.P.Duyamani
5.C.A.Peros Ahamed
6.C.A.Sahapudeen Ahamed
7.M.Jainulapudeen
8.Z.Bias Mohamed
9.Z.Abeeth Assam
10.Z.Ammattur Rakmani Sabika
11.S.Sahul Hammed
12.Farithul Hammed
13.C.A.Suraiya Begum
14.C.A.Raffieeka Begum

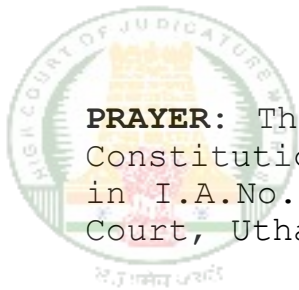
15. The Sub Registrar,
Cumbum Town,
Theni District.

16. The District Registrar,
South Agraharam,
Periyakulam Town and Taluk,
Theni District.

17. The District Collector,
Theni District,
Theni.

...Respondents/Respondents 4-17
/Defendants 4-17

(RR 1,3,9,10,12 & 14 Dismissed vide
Court Order dated 08.11.2019)



PRAYER: The Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair order dated 09.06.2015 made in I.A.No.223 of 2013 in O.S.No.41 of 2011 on the file of the Sub Court, Uthamapalayam.

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For Petitioners : Mr.R.Vijayakumar
For R6 & R11 : Mr.Mohamed Ibram Saibu
for M/s.Ajmal Associates
For RR15, 16 &17 : Mr.K.Sathiyasingh
Additional Government Pleader
For R4 & R2 : No Appearance

ORDER

The present petition is filed by the defendants 1 to 3 challenging the order made in I.A.No.223 of 2013, which the plaintiffs have filed for amending plaint.

2. The suit is laid for declaration of title, for a decree directing cancellation of registration of some document, for mandatory injunction of removal of a gate in the compound wall etc., A Commissioner has been appointed at the instance of the plaintiff and the Commissioner appeared to have filed his report. Thereafter, the plaintiff has filed I.A.No.223 of 2013 for amending the plaint on the allegation that since filing of the suit, certain subsequent events have taken place and wanted to introduce the same in the suit. The defendants 1 to 3 / revision petitioners herein contested it. But the trial Court had allowed the said application.

3. Heard the learned counsel appearing on either side and perused the records.

4. The plaintiff had filed a petition for amendment contending that since filing of the suit, taking advantage of the absence of the plaintiff from the suit property, the defendants have taken possession. The defendants would contend even in the written statement that they are in possession of the suit property. The trial Court however, has allowed the amendment application.

5. Whether the plaintiff was in possession at the time, when the suit was laid or whether there is any subsequent events adding to the cause of action or whether the contentions of the defendants that they are in possession even as on the date of the suit are all matters for trial. Therefore, this Court does not find any impropriety or irregularity in the approach of the trial Court. However, if the relief is barred by limitation for whatever reason, the trial Court may have to address it at the time of dismissal of the suit.



6. Subject to the last mentioned observation herein above, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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// True Copy //

Sd/-

Assistant Registrar (CS-III)

/ /2020
Sub Assistant Registrar(CS)

ta/msa

To

The Subordinate Judge,
Uthamapalayam.

Copy to:

- 1.The Sub Registrar,
Cumbum Town,
Theni District.
- 2.The District Registrar,
South Agraharam,
Periyakulam Town and Taluk,
Theni District.
- 3.The District Collector,
Theni District,
Theni.

C.R.P. (PD) (MD)No.2177 of 2015
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SRK(CO)
CS(21.10.2020) 3P 5C