

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(PD) No.2780 of 2016
and C.M.P.No.14205 of 2016

Minor Gokul
Rep by mother and next friend
Thangamani

... Petitioner

Vs.

1. Palaniswami
2. The District Collector,
Thiruchenkodu Road,
Namakkal.
3. The Revenue Divisional Officer,
Moganur Road,
Namakkal.
4. The Tahsildar,
Maganur Road,
Namakkal.
5. Tamil Nadu Electricity Board,
By its Superintendent,
Paramathi Road,
Namakkal.

6. The Executive Engineer,
Tamil Nadu Electricity Board,
Moganur Road,
Namakkal.

7. The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
Buthansanthai,
Namakkal Taluk and District.

8. The Assistant Engineer,
Tamil Nadu Electricity Board,
Kalankanni,
Namakkal Taluk and District.

... Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order dated 15.04.2016 in I.A.No.1112 of 2015 in O.S.No.35 of 2013 passed by the learned Principal District Munsif, Namakkal.

For Petitioner : Mr.S.Balasubramanian

For Respondents

For R1 : Mr.N.Manokaran

For R2 to R8 : No appearance

ORDER

This revision petition has been filed as against the fair and decreetal order dated 15.04.2016 passed by the learned Principal District Munsif, Namakkal in I.A.No.1112 of 2015 in O.S.No.35 of 2013, thereby

dismissing the petition for amendment of plaint filed by the petitioner herein.

2. The petitioner is the plaintiff. He filed suit for permanent injunction in respect of the suit property as against the respondents. On receipt of the summons from the suit, the respondents filed written statements and specifically took a stand that the suit property is a common property and they are having share over the suit property. Therefore, the petitioner filed a petition for amendment to include the prayer of declaration along with permanent injunction in respect of the suit schedule property. The Court below dismissed the said petition only on the ground that the when the suit was filed for permanent injunction, the petitioner cannot sought for declaration of title. Further the amendment would change the entire nature of the suit.

3. On perusal of plaint and written statement, it revealed that the petitioner filed a suit for permanent injunction and the suit property is a well. According to the first respondent the suit property is a common well

and the first respondent is also having equal share in the suit property. Therefore, the petitioner filed the petition for amendment seeking to include the prayer of declaration in respect of the suit schedule property. Without considering the above facts, the trial Court dismissed the petition filed by the petitioner. Therefore, the order passed by the Court below is liable to be set aside.

4. In view of the above discussions, the order dated 15.04.2016 passed by the learned Principal District Munsif, Namakkal in I.A.No.1112 of 2015 in O.S.No.35 of 2013 is hereby set aside and the Civil Revision Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous is closed.

18.01.2021

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

rts

To

1. The Principal District Munsif,
Namakkal.
2. The District Collector,
Thiruchenkodu Road,
Namakkal.
3. The Revenue Divisional Officer,
Moganur Road,
Namakkal.
4. The Tahsildar,
Maganur Road,
Namakkal.
5. Tamil Nadu Electricity Board,
By its Superintendent,
Paramathi Road,
Namakkal.
6. The Executive Engineer,
Tamil Nadu Electricity Board,
Moganur Road,
Namakkal.
7. The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
Buthansanthai,
Namakkal Taluk and District.



G.K.ILANTHIRAIYAN, J.

rts

8. The Assistant Engineer,
Tamil Nadu Electricity Board,
Kalankanni,
Namakkal Taluk and District.

9. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.



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