

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2021

CORAM

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

CRP.PD.No.2311 of 2018

and

C.M.P.No.14403 of 2018

1. Sengeni Ammal
2. Kannan

... Petitioners

Vs.

1. Sumathi
2. Pugazhendi
3. Ramamoorthy

... Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order and decretal order dated 04.04.2018 passed in I.A.No.809 of 2017 in O.S.No.224 of 2012, on the file of the I Additional District Munsif, Pudhucherry.

For Petitioner : M/s.G.Sumitra

For Respondent : Mr.V.Raghavachari
(for R-1 & R-2)
: Not Ready in Notice
No Appearance (for R-3)

ORDER

This Civil Revision Petition is directed as against the fair and decretal order passed in I.A.No.809 of 2017 in O.S.No.224 of 2012 dated 04.04.2018 on the file of the learned I Additional District Munsif, Pudhucherry, thereby allowing the petition seeking amendment with costs of Rs.1,500/-.

2. The petitioners are the defendants 1 and 2 and the respondents 1 and 2 are the plaintiffs. The respondents 1 and 2 initially filed the suit for permanent injunction in respect of 'B' schedule property and mandatory injunction directing the defendants to remove the encroachment in respect of 'A' schedule property. On receipt of the summons, the petitioners filed a petition for rejection of plaint on the ground that they have already pucca house constructed in the 'A' schedule property and as such, the relief sought for by the plaintiffs in the suit cannot be considered, and the same was dismissed by an order dated 27.06.2017 and thereafter, on 17.08.2017, the petitioners filed their written statement in the suit. In their written statement, they specifically stated that in respect of 'A' schedule property, they have constructed pucca house construction. Therefore, the respondents 1 and 2

were constrained to file a petition to amend the prayer in respect of 'A' schedule property to include the prayer of recovery of possession.

3. On a perusal of the written statement filed by the petitioners, it reveals that they have constructed pucca house structures in the 'A' schedule property. Therefore, it is necessary for the respondents 1 and 2 to pray not only for demolition and also to recover the possession of 'A' schedule property. Therefore, the Court below rightly allowed the petition and this Court finds no infirmity or illegality in the order passed by the Court below.

4. Accordingly, this Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

15.06.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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To

1. The I Additional District Munsif, Pudhucherry.

2. The Section Officer,
V.R.Section, High Court of Madras.

G.K.ILANTHIRAIYAN,J.

Kv



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