

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2021

CORAM

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

CRP.PD.No.926 of 2018
and CMP.No.5003 of 2018

S.Sivaraman

..Petitioner

Vs.

1.K.V.Sumathi
2.B.Bala Baskaran
3.Sukanya Chandrasekaran

..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India to allow this revision petition, thereby setting aside the order and decree dated 03.02.2018 in IA.No.13877 of 2017 in OS.No.4171 of 2010 on the file of the V Assistant Judge, City Civil Court, Chennai

For Petitioner : Mr.P.B.Ramanujam

For Respondents : No appearance

ORDER

This Civil Revision Petition is filed against the order and decree dated 03.02.2018 in IA.No.13877 of 2017 in OS.No.4171 of 2010 on the file of the V Assistant Judge, City Civil Court, Chennai, thereby allowed the amendment petition filed by the plaintiff.

2. The petitioner is the defendant and the respondents are the plaintiffs. Originally, the respondents filed suit for bare injunction in respect of the suit property. After filing written statement and also additional written statement by the petitioner, the respondents filed petition seeking amendment to add prayer of mandatory injunction in respect of the suit property.

3. On perusal of the affidavit filed in support of the amendment petition revealed that while the suit is in progress, the petitioner constructed wall in the car parking area in violation of the approved CMDA plan and in violation of the injunction order of the court below, when the suit is pending. The same was allowed. Whereas, the learned counsel for the petitioner contended that the suit was filed in the year 2010. Immediately the petitioner filed written statement and categorically averred that the builder had constructed one room as kitchen in the south western side of the ground floor and the construction was completed and handed over to the defendant by the builder on 23.04.2010 itself. Even then, the respondents did not take any step to amend the prayer immediately after filing written statement. After period of seven years, they come forward with the petition to amend the prayer, is barred by limitation and it is not permissible under law.

4. As stated supra, on perusal of the affidavit, according to the respondents, while the suit was in progress, the petitioner constructed wall in the car parking area. Therefore, the court below rightly allowed the petition and this Court finds no infirmity or illegality in the order passed by the court below. That apart, the amendment sought for by the respondents would not lead to any change of the nature and character of the suit.

5. Accordingly, the civil revision petition is dismissed. However, the petitioner is at liberty to file additional written statement, if any. Consequently, connected miscellaneous petition is closed. No order as to costs.

24.06.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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To

The V Assistant Judge,
City Civil Court,
Chennai

G.K.ILANTHIRAIYAN,J.

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