

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2021

CORAM

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

C.R.P.(PD) No.1804 of 2017

C.M.P.No.8587 of 2017

R.Murugesan .... Petitioner

Vs.

R.Ganesan .... Respondent

**Prayer:-** Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and final order dated 27.03.2017 passed in I.A.No.225 of 2017 in O.S.No.168 of 2009 on the file of the District Munsif Court, Pappireddipatti.

For Petitioner : Mr.R.Neelakandan

For Respondent : No appearance

**ORDER**

The Civil Revision Petition has been filed as against the order dated 27.03.2017 passed by the learned District Munsif, Pappireddipatti made in I.A.No.225 of 2017 in O.S.No.168 of 2009, thereby dismissing the petition for seeking amendment to include the prayer of declaration.

2. The petitioner is the plaintiff and the respondent is the defendant. The petitioner filed suit in O.S.No.168 of 2009 for injunction in respect of the suit property. After closing of evidence on both sides, the trial Court framed additional issue whether the prayer of injunction is maintainable without asking the relief of declaration in respect of the suit property. Therefore, immediately the petitioner filed petition for amendment to include the prayer of declaration in respect of the suit property. The said petition was dismissed on the ground that the prayer for declaration is barred by limitation.

3. When the petitioner already filed suit for injunction, the additional prayer sought to be included is only continuation of the suit and the plaint can be amended at any stage of the proceedings for determination of real question and contraverse. Further it would avoid multiplicity of proceedings. Therefore, the order passed by the trial Court is perverse and liable to be dismissed. However it can be allowed on payment of cost.

4. Accordingly, the order dated 27.03.2017 passed by the learned District Munsif, Pappireddipatti made in I.A.No.225 of 2017 in O.S.No.168 of 2009 is hereby set aside on payment of cost of Rs.5,000/- (Rupees five thousand only) payable to the respondent herein within a period of two weeks from the date of receipt of copy of this Order, failing which the order shall automatically stand cancelled. The respondent is permitted to file his additional written statement for the amended plaint. Thereafter, the trial Court is directed to dispose the suit within a period of three months from the date of receipt of copy of this Order.

5. Accordingly, the Civil Revision Petition stand allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Internet : Yes  
Index : Yes/No  
Speaking order/Non-speaking order

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**G.K.ILANTHIRAIYAN, J.**

rts

To

1. The District Munsif,  
Pappireddipatti.
2. The Section Officer,  
V.R. Section,  
Madras High Court,  
Chennai.



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