

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2021

CORAM

THE HONOURABLE **MR.JUSTICE A.D.JAGADISH CHANDIRA**

C.R.P.(PD)No. 960 of 2017

and C.M.P.No.4770 of 2017

Sivashanmugam

... Petitioner

Versus

1. Venkatesan
2. Kannan
3. Ganesan
4. Natarajan
5. Rajeswari
6. Kanchana
7. Jagadeeswari

...Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 24.08.2016 passed in I.A.No. 226 of 2016 in O.S.No.76 of 2010 on the file of Sub Court, Panruti.

For Petitioner

: Ms. R.Meenal

For Respondent-1

: Mr.R.Gururaj

For Respondent-2

: Mr.P.Muthukrishnan

The petitioner is the plaintiff in the original suit in O.S.No.76 of 2010 before the Sub Court, Panruti.

2. This revision petition has been filed seeking to set aside the fair and decreetal order dated 24.08.2016 passed in I.A.No. 226 of 2016 in O.S.No.76 of 2010 before the Sub-Court, Panruti, dismissing the petition filed by the revision petitioner/plaintiff under Order 6, Rule 17 of CPC., to amend the plaint.

3. The learned counsel for the petitioner would submit that the petitioner along with three other persons had filed in O.S.No.76 of 2010 before the Sub Court, Panruti, seeking for declaration and for permanent injunction. During the pendency of the suit, the plaintiffs 1 to 3 in O.S.No.76 of 2010 started to support the case of the defendants 1 and 2 and thereby there was necessity for the petitioner/plaintiff to transpose the plaintiffs 1 to 3 as defendants 3 to 5. In pursuance of the same, the petitioner has filed the petition for amendment and the same was also allowed. But by inadvertence the plaint has not been properly amended by incorporating the plaint averments against the transposed defendants 3 to 5 and thereby it caused some inconvenience and confusion in the plaint

averments. So, in order to give a clear picture of the case amended plaint in pursuance of the transposition of plaintiffs 2 and 3, has become necessary. The Trial Court without properly looking into the amended plaint had dismissed the same stating that the amendments caused confusion.

4. The learned counsel for the petitioner would submit that if this petition is not allowed, the petitioner will be put to irreparable loss and hardship. She would further submit that the petitioner/plaintiff in the interest of justice has to be permitted to file fresh amended plaint clarifying the confusions and if the petitioner is not permitted to file such amended plaint, the petitioner will be put to irreparable loss and hardship.

5. The learned counsel appearing for the respondents would submit that the Trial Court finding that there was some confusion in para 14 of the amended plaint had dismissed the same.

6. At this juncture, the learned counsel for the petitioner would submit that the petitioner would file a fresh amended plaint with clarity.

In such event, the respondents may be permitted to file additional written statement in respect of the same.

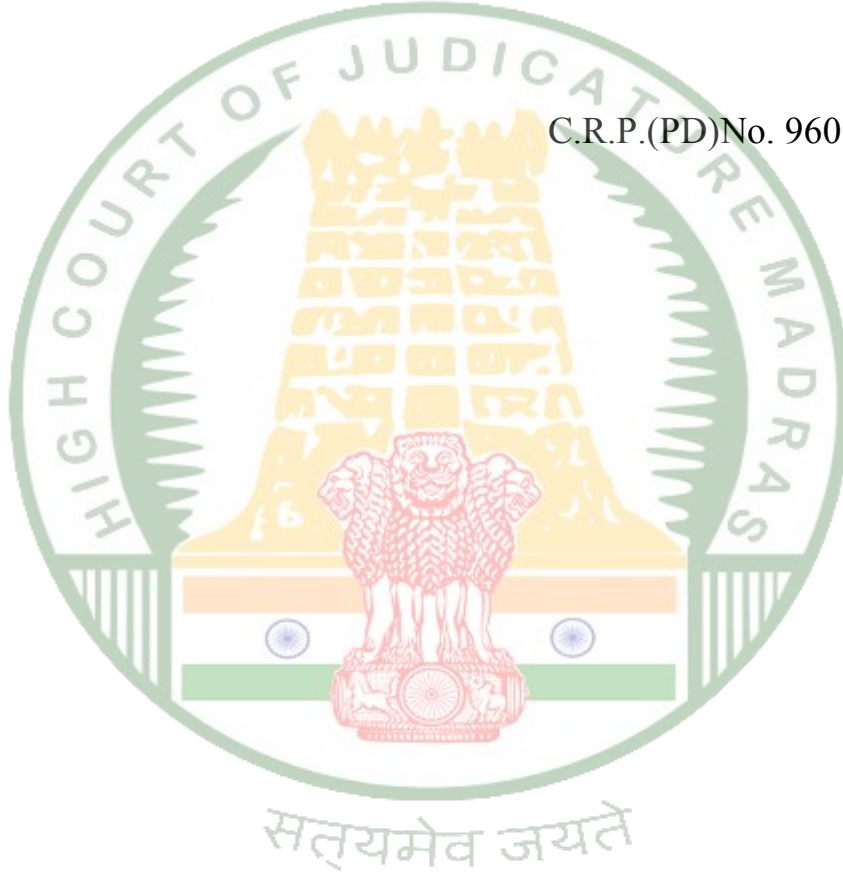
7. In view of the submission made by the learned counsels, the fair and decreetal order dated 24.08.2016 passed in I.A.No. 226 of 2016 in O.S.No.76 of 2010 on the file of Sub Court, Panruti, is hereby set aside. The petitioner/plaintiff is directed to file an amended plaint with clarity and the respondents shall be given a chance to file additional written statement regarding the same. Since the suit is of the year 2010, the trial Court is directed to accord priority to the case and see that the trial in the case is completed as expeditiously as possible preferably, on or before 31.03.2022.

8. With the above direction, the Civil Revision Petition is allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

27.07.2021

Speaking order : Yes/No
Index by : Yes/No
msm

A.D.JAGADISH CHANDIRA, J.



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