



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2021

CORAM

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

C.R.P.NO.3206 OF 2018

AND

C.M.P.NO.18350 OF 2018

Anandan (Deceased)

1. Kuppu

2. Mari

3. Rajambal

4. Ponnamalai

5. Rajapuchpam

6. Valarmathy

... Petitioners

.Vs.

Durai @ Subbarayan

... Respondent

PRAYER:-

Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order dated 03.04.2017 made in I.A.No.395 of 2015 in O.S.No.1174 of 2010 on the file of the learned I Additional District Munsif, Puducherry.

For Petitioners : Mr.S.Mahimai Raj

For Respondent : Mr.D.Ravichander

ORDER

This Civil Revision Petition is directed as against the fair and decreetal order dated 03.04.2017 passed by the learned I Additional District Munsif, Puducherry, in I.A.No.395 of 2015 in O.S.No.1174 of 2010, thereby dismissing the petition seeking amendment of plaint

2. The deceased petitioner is the plaintiff and the respondent is the defendant. The deceased petitioner filed suit in O.S.No.1174 of 2010 for declaration of title in respect of the suit property as against the respondent herein. While pending the suit, the respondent filed petition in I.A.No.443 of 2011 for rejection of plaint. Simultaneously, the deceased



petitioner also filed petition in I.A.No.395 of 2015 seeking amendment of plaint to include the prayer of recovery of possession in respect of the suit property. The Court below by an order dated 03.04.2017, allowed the petition for rejection of plaint and rejected the plaint in O.S.No.1174 of 2010. On the same day, the Court below dismissed the petition in I.A.No.395 of 2015, seeking amendment of plaint as infructuous. Aggrieved by the same, the present Civil Revision Petition is filed.

3. It is seen from the records, as against the order of rejection of plaint, the petitioner filed appeal suit before the learned Principal Subordinate Judge, Puducherry. Unfortunately, the first appellate Court dismissed the appeal as not maintainable without numbering. Aggrieved by the same the petitioner filed review petition in Rev.Appl.No.3 of 2018 and the same was also dismissed by an order 03.06.2020. As against the said order, the petitioner filed Civil Revision Petition in C.R.P.No.1900 of 2020 and the same is pending. In the mean time, the petitioner filed the present Civil Revision Petition, as against the order of dismissal of the petition for amendment as infructuous. If the petitioner succeeded in C.R.P.No.1900 of 2020, the petitioner can very well seek for the prayer of amendment of plaint before the trial Court.

4. In view of the above discussions, the order dated 03.04.2017 passed by the learned I Additional District Munsif, Puducherry, in I.A.No.395 of 2015 in O.S.No.1174 of 2010, is hereby set aside. It is made clear that if the petitioner succeeds in C.R.P.No.1900 of 2020 and if the suit is restored on file, the Court below is directed to consider the petition for seeking amendment afresh and pass order on merits and accordance with law.

5. With the above directions, this Civil Revision Petition stands allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rts

To

1. The Principal Subordinate Judge,
Puducherry.



2. The I Additional District Munsif,
Puducherry

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

+1cc to Mr.S.Mahimai Raj, Advocate, S.R.No.32855

+1cc to Mr.D.Ravichander, Advocate, S.R.No.32756

C.R.P.NO.3206 OF 2018 AND
C.M.P.NO.18350 OF 2018

GMI (CO)
PBS/16/08/2021