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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.09.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P. (MD) .No.63 of 2019

and

C.M.P. (MD) No.309 of 2019

Viswanathan

...Petitioner/Petitioner/Appellant

Vs.

1.Akbar Ali

2.Ganapoathy @ Karuppiah Thevar

...Respondents/Respondents/
Respondents

[2nd respondent set ex-parte before both Courts below, hence, notice may

be dispensed with to him.]

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order in I.A.No.100 of 2018 in A.S.No.37 of 2017 dated 06.09.2018 on the file of the Sub-Court, Aranthangi.

For Petitioner : Mr.N.Balakrishnan

For R-1 : Mr.M.Suresh

O R D E R

This Civil Revision Petition has been filed to set aside the fair and decreetal order, dated 06.09.2018, in I.A.No.100 of 2018 in A.S.No.37 of 2017 passed by the learned Subordinate Judge, Aranthangi.

2.The revision petitioner herein/plaintiff in O.S.No.135 of 2009 has filed suit against the respondents herein seeking permanent injunction on the file of the District Munsif Court, Aranthangi. The said suit was dismissed on 28.11.2013. Against the said dismissal order, dated 28.11.2013, the revision petitioner herein has preferred an appeal in A.S.No.37 of 2017 before the file of the Subordinate Court, Aranthangi. During the pendency of the appeal, the revision petitioner/plaintiff has filed a interlocutory application in I.A.No.100 of 2018 in A.S.No.37 of 2017 under Order 5 Rule 1 to amend the plaint for the relief of declaration and the same was dismissed on 06.08.2018. Against the said dismissal order,



this revision petitioner is before this Court.

3. Heard Mr.N.Balakrishnan, learned counsel appearing for the petitioner and Mr.M.Suresh, learned counsel appearing for the 1st respondent.

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4.It is seen from the records that this Civil Revision is preferred by the revision petitioner/plaintiff against the concurrent findings passed by the Courts below.

5.Already, the suit in O.S.No.135 of 2009 was dismissed by the Court below and the appeal in A.S.No.37 of 2017 is pending before the Appellate Court.

6.All the contents raised in this Civil Revision Petition can only be decided in the appeal in A.S.No.37 of 2017 which is pending before the Appellate Court. At this stage, the plaint cannot be amended. If any cause of action will arose, the revision petitioner/plaintiff can file a fresh suit before the appropriate Forum, in future.

7.In view of the above, this Civil Revision Petition stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ksa

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

The Subordinate Judge,
Aranthangi.

C.R.P. (MD) .No.63 of 2019
29.09.2021

RD (25/10/2021) 2P 2C