



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2021

CORAM

**THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR**

**C.R.P. (NPD) (MD) .No.1145 of 2021**

WEB COPY

K. Manikandan :Petitioner / Petitioner / Plaintiff  
Vs.

1.A. Roselet

2.Thomas : Respondents / Respondents / Defendants

**PRAYER:** Civil Revision Petition filed under Section 115 CPC against the order made in I.A.No.1 of 2021 in O.S.No.53 of 2012 on the file of the Principal District Munsif Court, Kuzhithurai, dated 12.03.2021.

For petitioner : Mr.N. Ananda Kumar

**O R D E R**

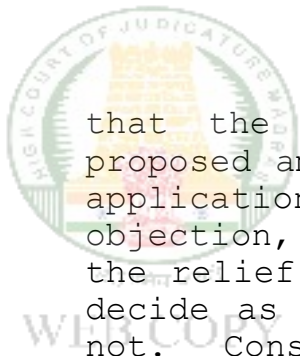
The revision is directed against the order passed in I.A.No.1 of 2021 in O.S.No.53 of 2012 on the file of the Principal District Munsif Court, Kuzhithurai, dated 12.03.2021, dismissing the petition filed under Sections 153 and 152 of Code of Civil Procedure.

2. The revision petitioner is the plaintiff and he has filed a suit in O.S.No.53 of 2012 claiming permanent injunction restraining the defendants and their men from interfering or disturbing with the peaceful possession and enjoyment of the plaintiff over the plaint schedule property and from demolishing the boundaries in any manner whatsoever.

3. It is evident from the records that since the defendants / respondents herein have remained ex parte, an ex parte decree was passed on 20.04.2012 granting permanent injunction as sought for by the plaintiff.

4. The plaintiff, after the lapse of nine years since the passing of final decree, filed an application in I.A.No. 1 of 2021 to amend the plaint for including the reliefs of declaration of title and possession with consequential injunction and for adding some more properties. When the petition was pending before the District Munsif Court, the respondents have endorsed no objection and the learned District Munsif after hearing the petitioner side and upon perusing the materials available, dismissed the petition.

5. The learned counsel for the petitioner would submit  
<https://hcservices.ecourts.gov.in/hcservices/>



that the respondents have endorsed no objection to allow the proposed amendment and that the trial Court erred in dismissing the application. Since because the respondents have stated no objection, it cannot be said that the petitioner is to be granted the relief sought for automatically and it is only for the Court to decide as to whether the proposed amendments are to be allowed or not. Considering the facts that the respondents have remained ex parte in the suit proceeding and that they have endorsed no objection to the proposed amendments, the same would only suggest that there existed collusion between the parties.

6. The learned District Munsif, by observing that the petitioner seeks for incorporation of the relief of declaration of title for which he values the property as Rs.1,56,000/- to which this Court lacks pecuniary jurisdiction and that the reasons assigned by the petitioner is not at all plausible and is totally misconceived, dismissed the petition.

7. It is very much shocking that after the filing of the suit for bare injunction and on getting permanent injunction, the plaintiff is now attempting to get declaration of title and possession with consequential injunction through amendments under Sections 152 and 153 of the Code of the Civil Procedure. Since the other side has endorsed no objection that is not sufficient to grant the relief claimed by the plaintiff.

8. Considering the above, this Court has no hesitation to hold that the very filing of the above petition would only amount to abusing the process of the Court and hence, the decision of the trial Court dismissing the petition cannot be found fault with. Consequently, this concludes that the revision is devoid of merits and the same is liable to be dismissed.

9. In the result, the Civil Revision Petition is dismissed.  
No costs.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

trp

To

The Principal District Munsif Court, Kuzhithurai.

**C.R.P. (MD).No.1145 of 2021**

**24.08.2021**