



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.09.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P. (MD) .No.1386 of 2021

C.M.P. (MD) .No.7878 of 2021

WEB COPY

Muthu

... Petitioner

vs.

1.Ravikumar
2.Guruprakash
3.Saroja

... Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 21.01.2021 passed by the Principal District Munsif, Thiruchirapalli in IA.No.2 of 2019 in OS.No.281 of 2018, by allowing this revision petition and allowing the petition for amendment as prayed for with costs.

For Petitioner

:Mr.S.K.Mani

O R D E R

This revision petition has been filed to set aside the order dated 21.01.2021 passed by the Principal District Munsif, Thiruchirapalli in IA.No.2 of 2019 in OS.No.281 of 2018.

2. The petitioner/plaintiff filed IA.No.2 of 2019 under Order VI Rule 17 to amend the prayer in the original plaint. The amendment sought for is a mandatory injunction to remove excessive building portion. The petitioner/plaintiff filed the plaint for the relief of permanent injunction. The mandatory injunction sought for in Interlocutory Application is contra to the original relief sought for in the plaint. There is no averment in the plaint that the construction was made by the defendants beyond the prescribed limit. Only on the basis of the Advocate Commissioner's Report, the petitioner/plaintiff has filed the amendment petition. Without any pleadings in plaint, the petitioner/plaintiff cannot seek for the relief. Hence, the Principal District Munsif, Thiruchirapalli is right in dismissing the Interlocutory Application. Since the stand taken by the petitioner/plaintiff in the original plaint and amendment petition are contra to each other, the petitioner/plaintiff shall withdraw the suit and file a fresh suit with necessary pleadings.

3. The period of pendency of the Interlocutory Application and Revision Petition may be excluded from the limitation period. The



petitioner is directed to file proper petition within a period of one month from the date of receipt of a copy of this order. Accordingly, this Civil Revision Petition is dismissed. Consequently, connected Civil Miscellaneous Petition is closed. No costs.

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Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 Principal District Munsif,
Thiruchirapalli

C.R.P. (MD) .No.1386 of 2021
28.09.2021

RD(8.10.2021) 2P 2C