



CRP.No.369 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.369 of 2022
and
CMP.No.1918 of 2022

1.Sangeetha
2.S.Pushpalatha

... Petitioners

Vs.

Narayanan

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 07.12.2021 made in I.A.No.521 of 2021 in O.S.No.655 of 2016 on the file of the learned Principal District Munsif Court, Alandur, by allowing this Civil Revision Petition.

For Petitioners : Mr.V.Balaji

For Respondent : No appearance



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ORDER

This Civil Revision Petition is filed, challenging the order passed by the Court below dismissing the petition filed by the petitioners/plaintiffs seeking amendment of the plaint to include the prayer for declaration in a suit which was originally filed for bare injunction.

2. The respondent is served with notice and his name is printed in the cause-list, but there is no representation for the respondent.

3. According to the learned counsel for the petitioner, initially, he filed a suit for bare injunction. At the time of pre-trial discussion, he was advised to include the prayer for declaration of title in the suit.

4. The perusal of the typed set of papers would suggest that the trial in the suit had commenced by filing of proof affidavit by PW1, first witness of the revision petitioner/plaintiff. Therefore, the effective participation of the respondent in the trial has not commenced before the Court below. The



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matter is posted for marking of documents by PW1. The Court below dismissed the amendment petition mainly on the ground that the petitioner has not given any convincing reasons for his failure to file amendment petition before commencement of trial.

5. It was also stated by the Court below that the proposed amendment would change the nature and character of the suit already filed. The revision petitioner originally filed a suit for bare injunction and the new prayer sought to be included by the petitioner appears to be a comprehensive one. The proposed amendment does not change the nature or character of the suit and the proposed amendment is with regard to the very same property and there would not cause any prejudice to the other side. If the proposed amendment is allowed, it will also prevent any future litigation. As stated earlier, trial in the matter has just began by filing proof of affidavit by PW1. It is stated that PW1 will get into the box for marking of documents on the side of the revision petitioner.

6. In the facts and circumstances of this case, this Court is



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inclined to set aside the order passed by the Court below and to allow this revision. The Civil Revision Petition is allowed and the impugned order in I.A.No.521 of 2021 is set aside and amendment application filed by the revision petitioner for inclusion of the prayer of declaration is allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

7. The learned counsel for the petitioners made a request for earlier disposal of the suit. Having regard to the fact that the suit is of the year 2016 and the matter is at this stage of PW1 chief examination, this Court is inclined to issue a direction to the Court below to dispose of the suit within a period of six months from the date of receipt of a copy of this order.

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Index : Yes / No
Internet : Yes / No
dna



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To

The Principal District Munsif Court, Alandur.



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S.SOUNTHAR, J.
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