



C.R.P.No.2357 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2022

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.No.2357 of 2019

and

CMP No.15354 of 2019

Anbu

....

Petitioner

Vs

Saravana Jothi

....

Respondent

Prayer :- Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the fair and final order dated 22.06.2018 made in I.A.No.207 of 2016 in O.S.No.86 of 2013 on the file of the Additional District Munsif Court, Mayiladuthurai.

For Petitioner : M/s.T.Lavanya

For Respondent : No appearance

ORDER

This Civil Revision Petition has been filed to set aside the fair and final order dated 22.06.2018 made in I.A.No.207 of 2016 in O.S.No.86 of 2013 on the file of the Additional District Munsif Court, Mayiladuthurai, thereby dismissing the petition seeking amendment of plaint.

2. The revision petitioner is the plaintiff and the respondent is



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the defendant. The plaintiff filed a suit for bare injunction in respect of the suit property. Pending suit, the petitioner filed a petition seeking amendment of plaint.

3. A perusal of the plaint reveals that the suit property 'well' is situated in the respondent's father share. According to the plaintiff, he is also having a right over the well to draw water. Whereas, a perusal of the written statement reveals that instead of right of drawing water in the well situated in the respondent's property, the petitioner was also given a suitable land and also one coconut tree in his favour. The subject well was already closed by natural cause. Therefore, now there is no well and no water is there. The written statement was filed in the year 2013 itself, immediately after filing the suit. The petitioner has come forward to seek amendment in the plaint to the effect that the main prayer as of mandatory injunction directing the respondent to dig the well.

4. A perusal of the counter filed by the respondent also reveals that already the well was closed by natural circumstances and the petitioner also has full knowledge about the same. Even at the time of filing the suit, there was no well. Instead of right of drawing water in the well situated in



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the respondent's property, the petitioner was also given suitable land along with one coconut tree in his favour. That apart, the petitioner was examined as P.W.1. He categorically admitted that even prior to 15 years of the suit, the subject well was closed naturally. There is no well in the said place. Therefore, the Court below rightly dismissed the petition.

5. In view of the above, this Court finds no infirmity or illegality in the order dated 22.06.2018 passed in I.A.No.207 of 2016 in O.S.No.86 of 2013 on the file of the Additional District Munsif Court, Mayiladuthurai. Accordingly, this Civil Revision Petition stands dismissed. The Trial Court is directed to dispose of the suit within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed. No costs.

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Index:Yes/No
Internet:Yes/No
Speaking Order: Yes/No
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To

The Additional District Munsif,
Mayiladuthurai.

G.K.ILANTHIRAIYAN, J.



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