



C.R.P. (NPD) .No.2926 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(PD).No.2926 of 2021

and

C.M.P.No.21017 of 2021

Poovalingam

.. Petitioner

Vs.

1.The Commissioner,
Coimbatore City Municipal Corporation,
Having Office at Big Bazar Street,
Coimbatore.

2.The Assistant Commissioner,
North Zone, Coimbatore City Municipal Corporation,
Coimbatore Corporation.

3.Amirtham

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 27.10.2021 made in I.A.No.3 of 2021 in O.S.No.2376 of 2015 on the file of the V Additional District Munsif Court, Coimbatore.

For Petitioner : Mr.K.Vasanthanayagan

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ORDER

WEB COPY The petitioner challenges the order dismissing the application for amendment of the plaint seeking to incorporate the prayer for declaration of title in the suit for mandatory and permanent injunction.

2. The suit was filed in the year 2015 seeking mandatory injunction directing the 1st defendant viz., The Commissioner, to assess the property tax in the name of the plaintiff and for permanent injunction restraining the 3rd defendant in the suit from interfering with the plaintiff's possession. The 3rd defendant filed written statement questioning the title of the plaintiff and claimed that she is a joint pattadhar and she set up title in herself.

3. The trial commenced in the year 2019 and it was completed on 13.02.2020. When the suit was posted for arguments, the plaintiff came up with this application seeking amendment of the plaint. The application for amendment has been filed after the trial is over. The petitioner is expected to demonstrate that he could not have filed this application earlier in point of time, despite due diligence on his part, as mandated under proviso to Order



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VI Rule 17 of the Code of Civil Procedure. The affidavit filed in support of the application is bereft of details, it does not spell out any reason as to why the petitioner could not have filed this application earlier in point of time.

4. It is seen from the records that the defendant had claimed that she is the joint pattadhar even in her written statement filed in 2016. Therefore, the claim of the petitioner that he came to know that the 3rd defendant is setting up title in herself only at the time of trial cannot be accepted.

5. In the absence of any reason as to why this application was not filed in earlier point of time, I am unable to fault the trial Court for dismissing the application. Hence, the Revision fails and it is accordingly dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

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R.SUBRAMANIAN, J.

dsa

To

The V Additional District Munsif, Coimbatore.

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