



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

**CRP.No.3382 of 2022
and
CMP.No.17970 of 2022**

R.Jagathambal

... Petitioner

Vs

1.Manimegalai

2. The District Elementary Educational Officer,
Nagapattinam,
Nagapattinam District.

3.The Assistant Elementary Educational Officer,
Kilvelur Taluk, Nagapattinam District

4.The District Collector,
Nagapattinam District
Nagapattinam.

...Respondents

Prayer:- This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 11.02.2022 passed by the learned District Munsif Court, Nagapattinam, in I.A.No.2 of 2021 in O.S.No.18 of 2015.



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For Petitioner : Mr.K.Raja
For Respondents : Dr.S.Suriya for R2 to R4
Additional Government Pleader

ORDER

This Civil Revision Petition is filed challenging the order passed by the court below by allowing the amendment application filed by the first respondent/plaintiff.

2. Dr.S.Suriya, learned Additional Government Pleader, takes notice for the respondents 2 to 4.

3. The 1st respondent herein has filed a suit for declaration that the order dated 13.11.2014 passed by the second respondent herein was invalid and consequential mandatory injunction.

4.The petitioner herein has filed a written statement wherein she had raised a defence that the suit was not maintainable without availing the alternative remedy of appeal before the statutory Authority. It was also contended by the revision petitioner in the written statement that the prayer in the suit without seeking declaration of the plaintiff status as Educational



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Agency was not maintainable. The said written statement was filed by the petitioner on 25.10.2021. Thereafter, the first respondent has come up with this amendment application seeking inclusion of prayer for a declaration that the first respondent / plaintiff was the Educational Agency of the school. The court below by the impugned order, allowed the said amendment application and aggrieved by the same, the revision petitioner is before this court.

5. The learned counsel for the petitioner has contended that the suit filed by the first respondent is not maintainable as he failed to file the alternative remedy of appeal available under the Private School Educational Act. It was also contended by the learned counsel for the petitioner that the present prayer for declaration is barred by limitation.

6. A perusal of the pleadings of the parties would suggest that the revision petitioner in his written statement dated 25.10.2021 had specifically raised a point that the suit without seeking declaration of first respondent's status as Educational Agency was not maintainable. This amendment application was filed within a month of date of filing of the



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written statement by the revision petitioner. Admittedly, the trial in this matter has not yet been commenced.

7. It is a settled law that in case of the pre-trial, amendments, the court shall be very liberal. As far as the contention of the learned counsel for the petitioner that the prayer for declaration sought to be introduced by amendment is time barred is concerned, it is always open to the petitioner to raise the question of limitation by filing additional written statement. Therefore, by allowing the amendment application, the petitioner is not at all prejudiced. Hence, I find no infirmity in the order passed by the court below.

8. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

26.10.2022

Index: Yes/No
Web: Yes/No
Speaking/Non Speaking
gv



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S.SOUNTHAR.,J.

gv

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