



CRP(PD)(MD)Nos.1321 and 1322 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(PD)(MD)Nos.1321 and 1322 of 2022

CMP(MD)No.5454 of 2022

J.Xavier

... Petitioner in
both CRPs.

versus

1. A.Anees Fathima
2. R.S.Siva Bharath

... Respondents in
both CRPs.

Prayer in CRP(PD)(MD)No.1321 of 2022: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 16.03.2022 passed in I.A.No.5 of 2021 in O.S.No. 52 of 2016 on the file of the Additional Sub Court, Nagercoil.

Prayer in CRP(PD)(MD)No.1322 of 2022: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 16.03.2022 passed in I.A.No.6 of 2021 in O.S.No. 52 of 2016 on the file of the Additional Sub Court, Nagercoil.

For Petitioner
in both CRPs. : Mr.K.P.Narayanakumar



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COMMON ORDER

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These Civil Revision Petitions are filed against the orders dated 16.03.2022 passed in I.A.Nos.5 & 6 of 2021 in O.S.No.52 of 2016 on the file of the Additional Sub Court, Nagercoil.

2. The petitioner herein is the second defendant in O.S.No.52 of 2016 on the file of the Additional Sub Court, Nagercoil. The plaintiff/first respondent herein filed the said suit for mandatory injunction and recovery of damages. Pending the suit, the 2nd defendant/revision petitioner filed interlocutory applications in I.A.Nos.5 and 6 of 2021 to reopen the suit and accept the Additional Written Statement with counter claim. The trial Court, by order, dated 16.03.2022, dismissed both the applications. Aggrieved over the same, the present Civil Revision Petitions are filed.

3. The learned counsel appearing for the petitioner submits that the petitioner has adduced evidence to prove that he has prescribed title



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over the plaint schedule property by adverse possession and limitation.

Further, the petitioner has omitted to raise the plea of adverse possession in the original written statement and therefore, it is necessary for him to file additional written statement. In order to avoid multiplicity of proceedings, he filed the above said interlocutory applications to reopen the suit and accept the additional written statement with counter claim. But, the trial Court, without considering the same, has dismissed the said interlocutory applications. Hence, the petitioner is before this Court.

4. This Court considered the submissions made by the learned counsel appearing for the petitioner and also perused the impugned order in the Civil Revision Petitions.

5. The petitioner/second defendant has filed the above applications to reopen the suit and file the additional written statement with counter claim. Now, the suit is at the stage of arguments of



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defendants side. The petitioner/second defendant has already filed a written statement admitting the ownership of the plaintiff and claiming possession over the property as a tenant and now, by way of this counter claim, he claimed ownership over the property by adverse possession. It clearly shows that the petitioner/second defendant, at the stage of arguments, wants to introduce a new cause of action and a counter claim to the suit. Therefore, the trial Court has rightly dismissed the above applications by following the Judgment rendered by the Hon'ble Apex Court in Ashok Kumar Kalra vs. Wing Cdr. Surendra Agnihotri reported in 2019 (16) Scale page 544. Therefore, there is no reason to interfere with the order passed by the trial Court.

6. Accordingly, both the Civil Revision Petitions are dismissed.

No costs. Consequently, connected miscellaneous petition is closed.

01.07.2022

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Internet: Yes / No.



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B.PUGALENDHI, J.

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To

1. The Additional Sub Court,
Nagercoil.

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