



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2022

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE S. ANANTHI

CRP(MD).No. 1657 of 2017 and
CMP(MD).No.9242 of 2017

Ambika .. Petitioner/ Petitioner/ Plaintiff

Vs.

Parmeswari .. Respondent / Respondent/ Defendant

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 17.07.2017 in I.A.No.240 of 2017 in O.S.No.121 of 2013 on the file of the Subordinate Judge, Padmanabhapuram.

For Petitioner ... Mr.N.S. Ramakrishnadass
For respondent ... Mr. V.M. Bala Mohan Thambi

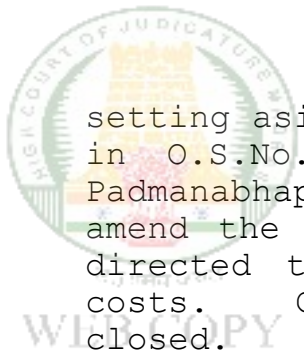
ORDER

The revision petitioner / plaintiff has filed this revision to set aside the order, dated 17.07.2017 made in I.A.No.240 of 2017 in O.S.No.121 of 2013 on the file of the Subordinate Judge, Padmanabhapuram.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The revision petitioner / plaintiff has filed the said Interlocutory Application in I.A.No.240 of 2017 under Order 6 Rule 17 CPC to amend the plaint. She has filed the suit in O.S.No.121 of 2013 for demarcation of property. The revision petitioner has filed amendment petition in the year 2017 stating that only after filing the Commission Report, she came to know about the encroachment of the defendant by putting up the toilet. So, she wants to amend the plaint for mandatory injunction to remove the encroachment. The defendant has not raised any plea that the toilet was already built up by him and even before the suit, the toilet is in existence So, only at the time of trial, the plaintiff has to prove as to whether the toilet has been constructed before the suit or during the pendency of the suit.

<https://hcservices.ecourts.gov.in/hcservices/> 4. Therefore, this Civil Revision Petition is allowed by



setting aside the order, dated 17.07.2017 made in I.A.No.240 of 2017 in O.S.No.121 of 2013 on the file of the Subordinate Judge, Padmanabhapuram. The trial Court is directed to frame issues and amend the plaint and proceed with trial. The respondent is also directed to file additional written statement, if necessary. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

trp

To

The Subordinate Judge, Padmanabhapuram.

+1 CC to M/s.N.S. RAMAKRISHNA DASS, Advocate (SR-17828[F] dated 11/04/2022)

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