



C.R.P.No.534 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2023

CORAM

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.No.534 of 2023
and
C.M.P.No.4378 of 2023

Govindan

... Petitioner

Vs

1.Selvarasu
2.Minnalkodi
3.Rajendiran

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 26.09.2022 made in I.A.No.562 of 2018 in O.S.No.262 of 2015 passed by the Additional District Munsif Court, Jayankondam.

For Petitioner

: Mr.P.Dinesh Kumar

For Respondents

: Mr.R.V.Pradeep
for Raja Raja Chozhan



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ORDER

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Challenge is laid to the order dated 26.09.2022 passed by the learned Additional District Munsiff, Jayankondam, in I.A.No.562 of 2018 in O.S.No.262 of 2015.

2. The plaintiff is the revision petitioner. He initiated the suit in O.S.No.262 of 2015 praying to pass a judgment and decree of declaration and permanent injunction. When the suit was pending, the plaintiff filed I.A.No.562 of 2018 seeking to amend the plaint, dismissal of which, led to the present revision petition.

3. According to the plaintiff/petitioner, the first item of the suit schedule property in S.No.266/159, Udayarpalayam, belonged to his ancestor, in which a roofed house was constructed by his parents and they were living in the house and are in possession and enjoyment of the same. A patta bearing No.1498 was also issued in favour of the mother of the petitioner. The plaint averment further state that the parents of the plaintiff were using the common pathway to reach the property through the second



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item in suit schedule property. According to him, taking advantage of the fact that the plaintiff and his family is away from the property, the defendants encroached the suit schedule property and put up an asbestos sheet structure. The petitioner gave complaint before the police authorities and during enquiry, the respondents/defendants agreed to remove the encroachment. Though the petitioner put up a fence, on 27.07.2015, the defendants attempted to trespass the property. In such circumstances, the suit was filed by the plaintiff, in which the interlocutory application was filed to amend the plaint.

4. The respondents/defendants filed the counter denying the averments made in the application. According to them, the claim of the plaintiff is bereft of merit and the suit schedule property never vest with the plaintiff's family.

5. After hearing the counsel on either side and having considered the arguments, the trial Court dismissed the I.A.No.562 of 2018 vide the impugned order dated 26.09.2022, the correctness of which is questioned.



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6. The learned counsel for the petitioner submitted that the Trial Court failed to consider the grounds raised by the petitioner and thus the order of the Trial Court is erroneous and the same has to be set aside.

7. On the other hand, the learned counsel for the respondents/defendants submitted that the Trial Court considered all the grounds raised by the plaintiff and dismissed the application through the reasoned order and the same may not be interfered with.

8. Heard both sides and perused the materials placed before this Court.

9. The Trial Court considered the fact that interim application is laid back on the reports submitted by the Advocate Commissioner, though the suit was laid as early as in the year 2015 itself and the amendment sought for by the plaintiff would alter the suit schedule property. It is also held that the plaintiff has not produced sufficient proof to grant the relief claimed.



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10. This Court is the view that the revision petitioner has not shown sufficient cause to interfere with the order of the Trial Court.

11. In the result, the Civil Revision Petition fails and the same is dismissed. No Costs.

21.07.2023

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Index : Yes/No

Internet: Yes/No

Neutral Citation: Yes/No



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V.BHAVANI SUBBAROYAN, J.

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To

The Additional District Munsiff Court,
Jayakondam.

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