



CRP Nos.4310 & 4312 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 05.12.2023

CORAM :

**THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI**

**Civil Revision Petition Nos.4310 and 4312 of 2023**  
**and C.M.P. No. 26261 of 2023**

K.Bhavani

... Petitioner in both CRPs.

Vs.

1. J.Mohan
2. J.Santhosh
3. J.Ezhilarasi

...Respondents in both CRPs.

Prayer : Civil Revision Petitions filed Under Article 227 of Constitution of India, praying to set aside the order and decree made in I.A.No.1 of 2022 in I.A.No.521 of 2018 in O.S.No.82 of 2012 and I.A.No.521 of 2018 in O.S.No.82 of 2012 on the file of the District Munsif, Gudiyattam, Vellore District, dated 07.09.2023.

For Petitioner : Mr.K.A.Ravindran

**COMMON ORDER**

These Civil Revision Petitions have been filed to set aside the order and decree made in I.A.No.1 of 2022 in I.A.No.521 of 2018 in



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O.S.No.82 of 2012 and I.A.No.521 of 2018 in O.S.No.82 of 2012 on the file of the District Munsif, Gudiyattam, Vellore District, dated 07.09.2023.

2. Heard Mr.K.A.Ravindran, learned counsel appearing for the petitioner.

3. The petitioner/plaintiff has filed petitions i.e., I.A.No.521 of 2018 in O.S.No.82 of 2012 to amend the plaint and I.A.No.1 of 2022 in I.A.No.521 of 2018 in O.S.No.82 of 2012 to amend the petition in I.A.No.521 of 2018.

4. The petitioner has filed a suit for permanent injunction. Subsequently, he filed an application for appointment of Advocate Commissioner and after the Advocate Commissioner's report, he came to know that the respondents/defendants have made an encroachment in the petitioner's property. Hence, the petitioner has filed an application in I.A.No.521 of 2018 to amend the plaint by adding the prayer for recovery of possession. Thereafter, the petitioner has filed another application in I.A.No.1 of 2022 for amendment in I.A.No.521 of 2018 that he has not



mentioned the present proposed amendment in the earlier amendment petition. Hence, he filed both petitions seeking amendment in the plaint.

5. The learned Trial Judge after considering the submission on either side and the materials available on record, had dismissed both the petitions by stating that there is no cause of action for the present amendment. Moreover, while filing the written statement, the defendants have stated that they are in possession of the property, but it was not denied by the petitioner immediately, however, after six years, he filed an application for amendment, hence, the same is not permissible. Further the Trial Court has stated that the amendment petition cannot be amended by an another amendment petition. Accordingly, dismissed both the applications. Challenging the same, the petitioner has filed these Civil Revision Petitions.

6. Before commencing of the trial, the petitioner/plaintiff has filed application for amendment seeking permission to add the prayer for recovery of possession and the prayer for declaration. After the Advocate Commissioner's report only, the petitioner came to know that there was an encroachment, hence, to avoid multiplicity of proceedings, the



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petitioner has filed these applications. Therefore, the Trial Court ought to have considered the applications filed by the petitioner because the present amendment petition would not change the character of the suit, but the learned Trial Judge had failed to take note of the same, therefore dismissal of the applications filed by the petitioner is an erroneous one, and the same is liable to be set aside and accordingly, it is set aside.

7. Accordingly, these Civil Revision Petitions are allowed. Liberty is granted to the defendant to file additional written statement, if any. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

**05.12.2023**

Index : Yes/No  
Speaking/Non Speaking order  
Neutral Citation: Yes/No  
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To  
1. The District Munsif, Gudiyattam Vellore District.  
2. The Section Officer,  
VR-Section, High Court of Madras.



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**T.V.THAMILSELVI, J.**

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