



C.R.P.No.4593 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.4593 of 2023

and

C.M.P.No.27454 of 2023

M.Sohanlal

... Petitioner

-Vs-

1. Guru

2. Awathi

3. Kalaiarasu

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 30.01.2023 made in I.A.No.109 of 2018 in O.S.No.214 of 2017 on the file of the Principal District Munsif, Poonamallee and to allow the above C.R.P.

For Petitioner

: Mr.T.Sundaravadanam



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ORDER

Challenging the impugned order passed in I.A.No.109 of 2018 in O.S.No.214 of 2017 passed by the learned Principal District Munsif, Poonamallee, the Revision Petitioner/plaintiff preferred this Civil Revision Petition.

2. Since the relief is claimed challenging the order passed by the trial judge, notice to the respondents is dispensed with.

3. Before the trial court, the Revision Petitioner/plaintiff filed an application praying to grant leave to amend the suit in I.A. No. 109 of 2018 by adding the prayer of declaration in respect of execution of sale deed. But, the same was dismissed by the trial judge holding that the proposed amendment would change the character of the suit. Aggrieved over the same, the revision petitioner/plaintiff preferred this Civil Revision Petition.



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4. The learned counsel for Revision Petitioner would submit that the plaintiff filed the suit for the relief of bare injunction in the year of 2017, now at the time of trial in the year of 2018, he filed the said application to amend the pleadings, but the same was disposed of only in the year of 2023. However, immediately after filing of the suit, the plaintiff filed an application to amend the pleadings by adding the prayer of declaration to declare the sale deed dated 20.03.2017 as null and void and also the General Power of Attorney of the year of 2016 as null and void. But, without considering his submissions, the trial judge dismissed the application. Hence, he prayed to set aside the findings of trial judge.

5. Records perused. On perusal of entire facts, as the plaintiff, he is entitled to seek those reliefs in the suit filed by him and so far the trial was not begun. So, he is having valid defence to prove his claim and if an opportunity is not given to the plaintiff, his valuable right to defend the case will be defeated. But, without giving opportunity, the trial judge dismissed the application, as such is erroneous one and the same is liable to be set aside. Accordingly, this Civil Revision Petition is allowed and the findings of the trial judge in I.A.No. 109 of 2018 in O.S.No.214 of 2017 is



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set aside and the application is ordered to be allowed. Liberty is granted to respondents/defendants to file their additional written statement. The trial judge is directed to complete the trial and dispose the case as early as possible. Furthermore, the court fee was also paid by the plaintiff and with regard to cancellation of document, liberty is granted to the revision petitioner/plaintiff to file appropriate application before the trial court. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

18.12.2023

Index : Yes/No

Speaking Order : Yes/No

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To

The Principal District Munsif, Poonamalee.



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T.V.THAMILSELVI, J.

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