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C.R.P.No. 4065 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2023

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.No. 4065 of 2022

and

CMP.No. 21092 of 2022

Pandurangan

...Petitioner

Versus

- 1.Muthaiyan
- 2.Anbazhagan
- 3.Anandhaiyee
- 4.The Tahsildar
Office at Taluk Office
Panruti.
- 5.The District Revenue Officer
Office at Collector's Office
Cuddalore-1.
6. The District Collector,
Cuddalore District,
Cuddalore-1.

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, prays to set aside the fair and decreetal order dated 24.08.2022 passed in I.A.No. 215 of 2022 in O.S.No. 13 of 2008 on the file of the District Munsif, Panruti.



C.R.P.No. 4065 of 2022

WEB COPY

For Petitioner : Mr.D.Vijaya Babu
For R1 : Mr.V.Srinivasan
For R2 : Mr.K.Kathiravan
For R3 : No Appearance
For RR4 to 6 : Mr.S.P.Karthick
Government Advocate

ORDER

Heard both sides and perused the records.

2. It is seen that the petitioner/plaintiff has filed the suit in O.S.No. 13 of 2008 for declaration, permanent injunction and other reliefs. The defendants 1 to 3 contested the suit by filing written statement denying all the averments made in the plaint. The petitioner/plaintiff submits that after completion of trial on 04.07.2018, the learned District Munsif, Panruti, pronounced the judgment and dismissed the O.S.No.13 of 2008 which was filed by the petitioner/plaintiff and O.S.No. 321 of 2007 filed by the third defendant that was also dismissed. O.S.No. 243 of 2006 which was allowed the declaration and permanent injunction granted in favour of the 2nd defendant in O.S.No. 13 of 2008 which was filed by the petitioner/plaintiff. Subsequently, the learned District Munsif set aside the



C.R.P.No. 4065 of 2022

judgment and decree passed in O.S.No. 243 of 2006 and O.S.No. 13 of 2008. Thereafter, the petitioner/plaintiff has filed I.A.No. 215 of 2022 in O.S.No. 13 of 2008 under Order 6 Rule 17 CPC seeking to amend the plaint. After perusing the records, the Court below dismissed by order dated 24.08.2022. Against which, the petitioner/plaintiff has come forward with the present Civil Revision Petition.

3. The learned counsel for the petitioner/plaintiff contended that the 1st respondent is not in possession of the suit property and a hut in the suit property was damaged due to thane cyclone. Therefore, it is necessary to delete the prayer against the first respondent and add the relief of mandatory injunction. Hence, the learned counsel for the petitioner/plaintiff prays to set aside the findings of the Court below. On the other hand, the learned counsel for the respondents/defendants contended that the petitioner/plaintiff filed the application belatedly changing the very nature of the suit and the suit is remanded back for limited purpose only. Therefore, the learned counsel for the respondents prays to dismiss the above Civil Revision Petition.

4. It is also seen that during the pendency of the suit, the 1st



C.R.P.No. 4065 of 2022

respondent vacated the suit premises and the 4th respondent has also cancelled the patta stands in the name of the petitioner/plaintiff.

Therefore, it is necessary to delete the relief of recovery of possession and add the relief of mandatory injunction directing the 4th respondent to grant patta in favour of the petitioner. It is no doubt as per Section 14 of the Tamil Nadu Patta Pass Book Act, 1983, no suit would lie in respect of any entry made in any Patta Pass Book or in respect of any entry that has been omitted or amended. It is further seen that the trial was commenced in the suit on 08.09.2016 and judgment was also pronounced by the Court below on 04.07.2018. It is clear that the petitioner/plaintiff has filed the application at the belated stage without assigning any reason for the said delay. The suit was filed in the year 2008 and even as per the case of the petitioner/plaintiff thane cyclone was occurred in the year 2011. After full trial, the judgment was pronounced by the Court below on 04.07.2018 and the case was remanded back by the Court below for limited purpose alone. According to the petitioner/plaintiff, aggrieved by the judgment and decree in O.S.No. 13 of 2008 passed by the learned District Munsif, Panruti, the present petitioner/plaintiff has been preferred an appeal before the learned Subordinate Judge, Panruti, on 30.11.2020 in A.S.No. 40 of 2018. After remand back the order was passed by the learned Subordinate



C.R.P.No. 4065 of 2022

Judge, Panruti, due to the spread of corona virus pandemic situation, the suit was not disposed the speedy manner. In the meanwhile, the application has been filed in I.A.No. 215 of 2022 in O.S.No. 13 of 2008 for amending prayer. Therefore, this Court is not inclined to interfere with the impugned order passed by the Court below. Hence, the above Revision is liable to be dismissed.

6. Taking into the above facts and circumstances of the case and the submissions made by the learned counsel for both sides, this Court directs the Court below to complete the trial and dispose of the suit in O.S.No. 13 of 2008 on the file of the District Munsif, Panruti, within a period of one year from the date of receipt of a copy of this order.

7. The Civil Revision Petition is dismissed with the above direction. Consequently, connected Miscellaneous Petition is closed. No costs.

28.08.2023

Index : Yes/No
Speaking order : Yes/No
Neutral Citation : Yes/No
MSM



C.R.P.No. 4065 of 2022

To
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The District Munsif, Panruti.



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C.R.P.No. 4065 of 2022

V.BHAVANI SUBBAROYAN, J.

MSM

C.R.P.No. 4065 of 2022

28.08.2023