



WEB COPY

C.R.P.No.4175 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.4175 of 2022
and
C.M.P.No.21868 of 2022

Velu Goundar

... Petitioner

Vs.

1.Janarthanam

2.Suresh Mani

3.The State of Tamil Nadu,
Represented by its Vellore District Collector,
Having Office at Sathuvachari,
Vellore.

4.The District Revenue Development
Administrative Officer, Sathuvachari,
Vellore,
Vellore District.

5.The Tahsildar,
Gudiyattam Taluk,
Vellore District.

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Fair and Decretal Order dated 16.11.2022 passed in I.A.No.1 of 2022 in O.S.No.106 of 2008 on the file of District Munsif, Gudiyattam.



For Petitioner : Mr.M.Marudhachalam
For R1 & R2 : No appearance
For R3 to R5 : Mr.P.Harish,
Government Advocate (CS)

ORDER

The Civil Revision Petition has been filed against the Fair and Decreetal Order dated 16.11.2022 passed in I.A.No.1 of 2022 in O.S.No.106 of 2008 on the file of District Munsif, Gudiyattam.

2. The revision petitioner is the plaintiff, who instituted a Suit for Delivery of Possession. The Suit was instituted in the year 2008, which is pending for the past about 14 years. After a lapse of about 12 years, the revision petitioner / plaintiff filed an Interlocutory Application in I.A.No.1 of 2022 to amend the plaint under Order VI Rule 17 of the Civil Procedure Code. The plaintiff sought for the relief to delete Item No.3 of the Suit Scheduled Property from the plaint, which is a Government poramboke land. If at all it is a Government poramboke land, it is for the Competent Authorities of the Government to initiate appropriate action to evict the encroachers by invoking the provisions of the Tamil Nadu Land



Encroachments Act, 1905 or under the provisions of any other relevant statutes.

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3. As far as the plaintiff is concerned, the Interlocutory Application to amend the plaint is filed after a lapse of about 12 years from the institution of the Suit for Delivery of Possession and the Trial has already commenced in the Suit and the Suit was posted for cross of DW1 during the relevant point of time, when the Interlocutory Application was decided on 16.11.2022.

4. Order VI Rule 17 proviso stipulates that *“no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that inspite of due diligence, the party could not have raised the matter before the commencement of trial.”*

5. In the present case, the Suit was instituted in the year 2008 and the plaintiff was very much aware of the facts and circumstances with reference to Item No.3 of the Suit Scheduled Property and therefore, the Interlocutory Application was filed after the commencement of the trial in order to drag on the Proceedings and thus, the order passed by the Trial Court in



dismissing the Interlocutory Application is in consonance with the spirit of the Order VI Rule 17 of the Civil Procedure Code proviso clause and there is no infirmity as such.

6. Accordingly, the Civil Revision Petition in C.R.P.No.4175 of 2022 is devoid of merits and stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

23.01.2023
(1/2)

skr

Index : Yes
Neutral Citation : Yes
Speaking order



To

- 1.The Judge,
District Munsif,
Gudiyattam.
- 2.The Vellore District Collector,
State of Tamil Nadu,
Having Office at Sathuvachari,
Vellore.
- 3.The District Revenue Development
Administrative Officer, Sathuvachari,
Vellore,
Vellore District.
- 4.The Tahsildar,
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S.M.SUBRAMANIAM, J.

Skr

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