



C.R.P.No. 4620 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2023

CORAM:

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

C.R.P.No. 4620 of 2023

and

C.M.P.No.27546 of 2023

Palaniammal

... Petitioner

-Vs-

1. Jamberi

2. Ravi

Subramani (died)

3. Saradha

4. Pattammal,

5. Lakshmi

6. Govindaraj

7. Kuppan

...Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order and decreetal order dated 05.10.2023 made in I.A.No.5 of 2023 in O.S.No.107 of 2013 on the file of Subordinate Judge, Dharmapuri.



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For Petitioner : Mr.V.R.Anna Gandhi

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ORDER

Challenging the impugned order passed in I.A.No.5 of 2023 in O.S. No.107 of 2013 passed by the learned Principal Subordinate Judge, Dharmapuri, 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 to amend the pleadings by including the prayer of declaration as well as consequential injunction. But the said prayer was not permitted by the trial judge stating that after commencement of trial, the said application was filed by the plaintiff as such is not maintainable. Accordingly, it was dismissed. Furthermore, it would also amount to change the character of suit. Challenging the said findings, she preferred this Civil Revision Petition.

4. Records perused. On perusal of records, it reveals that the revision petitioner/plaintiff is aged more than 75 years old senior citizen lady and she had filed a suit in the year of 2013 for the relief of declaration



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and consequential injunction. While so, during the evidence, she found that the prayer for the relief of recovery of possession is also necessary, hence, to that effect, she wanted to amend prayer, for which, she agreed to pay the court fee. Since she approached the court for more than 10 years back, now, she wanted to include prayer for the relief of recovery of possession, which would not change the character of the suit. But, the trial judge failed to appreciate the same. If opportunity is not given to seek proper relief before the trial court, her valuable right to protect the property will be defeated. Accordingly, this Civil Revision Petition is allowed and the findings of trial judge in I.A.No.5 of 2023 in O.S.No.107 of 2013 is set aside and the said application is ordered to be allowed. Liberty is granted to the defendants to file their additional written statement, if any. Thereafter, the trial judge is directed to dispose the case as early as possible. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

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Index : Yes/No

Speaking Order : Yes/No

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To

The Sub-Judge, Dharmapuri.



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T.V.THAMILSELVI, J.

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