



C.R.P.No.4419of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2023

CORAM:

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

C.R.P.No.4419 of 2023

and

C.M.P.No.26704 of 2023

Banumathi

... Petitioner

-Vs-

1.Palaniammal

2.Selvam

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and final order dated 11.10.2023 made in I.A.No.1 of 2021 in O.S.No.284 of 2017 passed by the Additional District Munsif Court, Mayiladuthurai.

For Petitioner : Mr.B.Jawahar

ORDER

Challenging the impugned order passed in I.A.No.1 of 2021 in O.S.No.284 of 2017 passed by the learned Addl. District Munsif, Mayiladuthurai, the Revision Petitioner/plaintiff preferred this Civil Revision Petition.

2. Since the relief is claimed challenging the order passed by the trial



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judge, notice to the respondents is dispensed with.

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3. Before the trial court, the Revision Petitioner filed an application in I.A.No.1 of 2021 praying for amendment by adding the prayer of recovery of possession. The trial judge held that if such a prayer is allowed, the pecuniary jurisdiction would be differed. Therefore, he is not inclined to allow the amendment. Accordingly, the said application was dismissed. Challenging the said findings, the revision petitioner/plaintiff preferred this Civil Revision Petition.

4. The learned counsel for Revision Petitioner would submit that as a plaintiff, he filed a suit in the year of 2017 for bare injunction. Since the defendants subsequently encroached the property, now she wanted to add a prayer for recovery of possession. But, the trial judge held that on considering the value of property, in the present prayer, the decree increased to Rs.1,80,000/- thereby, the Munsif Court has no jurisdiction to entertain such application, thereby it was dismissed. Hence, he prayed to set aside the findings of the trial judge.

5. Admittedly, after filing of the suit, the plaintiff wanted to add the prayer of recovery of possession and accordingly, she valued the property at Rs.1,79,000/-, which is exceeding the limit of Munsif Court, but the



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application as such is maintainable. Therefore, the application filed by the plaintiff as such is maintainable. If opportunity is not given to the Revision Petitioner/plaintiff, her valuable right to defend the case will be defeated. Accordingly, this Civil Revision Petition is disposed of and the findings rendered by the trial judge in I.A.No.1 of 2021 in O.S.No.284 of 2017 is set aside and the said application is ordered to be allowed. The trial judge is directed to transfer the matter to Sub-Court, Mayiladuthurai for further proceedings within a period of two weeks from the date of receipt of copy of this order. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes/No
Speaking Order : Yes/No
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To

The Additional District Munsif Court, Mayiladuthurai.



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T.V.THAMILSELVI, J.

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