



C.R.P.(MD).No.1269 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :02.06.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P.(MD).No.1269 of 2023

and

C.M.P.(MD).No.6224 of 2023

Habeebal Begam

... Petitioner

Vs.

M.Mydeen Beevi

... Respondent

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed in I.A.No.1 of 2022 in O.S.No.15 of 2015 dated 23.03.2023 on the file of the Principal Sub Judge, Tenkasi.

For Petitioner :Mr.T.Selvan

ORDER

This Civil Revision Petition filed to set aside the fair and decreetal order passed in I.A.No.1 of 2022 in O.S.No.15 of 2015 dated 23.03.2023 on the file of the Principal Sub Judge, Tenkasi.



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2. The petitioner is the defendant in O.S.No.15 of 2015 before the Principal Sub Court, Tenkasi. The suit was filed by the respondent for a declaration and for an injunction in respect of the second suit scheduled property. It appears that during the pendency of the suit, the respondent/plaintiff had also secured an interim order to restrain the respondent from putting up any construction in the second suit scheduled property.

3. The admitted facts are that on 13.03.2015, during the pendency of the suit, the petitioner appears to have put up a wall in the aforesaid property. Therefore, an application under Order 39 Rule 2A of Civil Procedure Code appears to have been filed by the respondent, which was however later set aside by the trial Court in C.M.A.No.29 of 2019 along with the application filed for willful disobedience of interim order. The respondent had filed I.A.No.157 of 2015, which was withdrawn, in view of the order passed in C.M.A.No.29 of 2019.

4. In the light of the above development, the respondent filed I.A.No.1 of 2022 under Order 6 Rule 17 of Civil Procedure Code to



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amend the prayer in the suit to include a prayer for mandatory injunction to demolish the construction put up by the petitioner on 13.03.2015.

5. The specific case of the petitioner is that the alleged construction was made by the petitioner in the year 2015. Hence, the amendment in the prayer in 2022 was belated and was therefore liable to be interfered with.

6. I have considered the arguments advanced by the learned counsel for the petitioner and perused the impugned order passed by the trial Court, Tenkasi.

7. In my view, the impugned order does not call for any interference. In fact, the learned Principal Subordinate Judge has taken note of the recent decision of the Hon'ble Supreme Court reported in **2023(1) MWN (Civil) 87** in the case of ***Life Insurance Corporation of India Vs. Sanjeev Builders Pvt Ltd and another.***



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8. The respondent would have been satisfied if the order passed for willful disobedience was not interfered in C.M.A.No.29 of 2019 and therefore, there would not have been any necessity to withdraw I.A.No. 157 of 2015. The impugned direction to remove the construction put up by the petitioner since the order directing the petitioner to put behind the civil person was interfered in C.M.A.No.29 of 2019, I.A.No.157 of 2015 filed along with the application for punishing the petitioner for willful disobedience of Court order have to be withdrawn. Therefore, the impugned order allowing the application for amending the prayer for mandatory injunction does not call for any interference. Therefore, I do not find any reasons to interfere with the impugned order.

9. Accordingly, this Civil Revision Petition Stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

02.06.2023

NCC :Yes / No

Index :Yes / No

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C.SARAVANAN, J.

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