



C.R.P.(PD).No.1454 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.1454 of 2021

Selvaraj

... Petitioner

vs.

1.Veerappan

2.Ashok

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair and decreetal orders dated 06.03.2021 passed in I.A.No.77 of 2020 in O.S.No.94 of 2012 on the file of the Additional District Munsif Court, Cuddalore District.

For Petitioner : Mr.P.Mani

For Respondents : Mr.S.Manivasagam for R2
R1-not known

ORDER

The Civil Revision Petition is filed challenging the order passed by the trial Court dismissing the application filed by the petitioner seeking amendment of the plaint. The petitioner herein filed a suit seeking



C.R.P.(PD).No.1454 of 2021

declaration of title and permanent injunction. He also sought for declaration that sale deed executed by first defendant in favour of second defendant was null and void.

2. It is the case of the petitioner that during the pendency of the suit, the second respondent/second defendant herein trespassed into the suit property and put up a temporary structure and hence he was constrained to file an amendment application seeking to include the prayer for recovery of possession.

3. It is seen from the prayer made in the amendment application filed by the petitioner that he has not chosen to delete the prayer for injunction. However, along with prayer for injunction, he wants to include a new prayer for recovery of possession. It is the case of the petitioner that the second respondent already trespassed into the suit property and hence appropriate relief for the petitioner is recovery of possession in addition to earlier prayer for injunction. The petitioner is not entitled to retain the prayer for injunction and also seek prayer for recovery of possession. The prayer of



C.R.P.(PD).No.1454 of 2021

injunction and recovery of possession cannot go together. If the present amendment application is allowed as prayed for, it will result in inclusion of prayers which are mutually destructive in nature.

4. I do not find any error in the order passed by the Court below, dismissing the amendment application filed by the petitioner. However, it is made clear, it is open to the petitioner to file a fresh amendment application seeking to substitute the prayer for injunction. If the said application is filed by the petitioner, the same has to be disposed on its own merits, without being influenced by anything said in the order. No costs. Consequently, connected miscellaneous petition is closed.

12.02.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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C.R.P.(PD).No.1454 of 2021

S.SOUNTHAR, J.

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To

The Additional District Munsif Court,
Cuddalore District

C.R.P.(PD).No.1454 of 2021

12.02.2024

4/4