



CRP No.2536 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

CRP No.2536 of 2024
and CMP No.13298 of 2024

1.Balakrishnan
2.Komalavalli

.. Petitioners

-VS-

Vasudevan

.. Respondent

Prayer: Revision petition filed under Article 227 of the Constitution of India against the Fair and Decretal Order passed in I.A.No.74 of 2023 in O.S.No.38 of 2021 on the file of District Munsif cum Judicial Magistrate, Cheyyur.

For Petitioners : Mr.B.Manoharan
for Mr.S.Mannarsamy

* * * * *

ORDER

The defendants are the civil revision petitioners. The plaintiff, who is the respondent herein, filed a suit for declaration of his title and for permanent injunction.



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2. The claim of the plaintiff is that he got the property from one Perumal Gounder, his father, who had executed a settlement deed in his favour on 08.04.2013 and on the basis of which he mutated the revenue records in his favour. He would further plead that on 11.10.2014, the defendants attempted to interfere with his possession and hence he brought forth the suit for the aforesaid reliefs before the learned District Munsif at Madurantagam.

3. On entering appearance, the defendants filed a detailed written statement in which they accepted the fact that Perumal Gounder had executed a settlement deed on 08.04.2013, but would plead that the said document was cancelled on 22.04.2013. Hence, they sought for dismissal of the suit. Subsequently, by virtue of bifurcation of territorial jurisdiction, the suit which was pending before the Munsif Court at Madurantagam stood transferred to the District Munsif Court at Cheyyur.

4. Noticing that the plaintiff had not sought for a declaration that the cancellation deed is null and void, he moved an application for amendment to include the said prayer in the plaint. This was resisted by the defendants stating that if the amendment application is allowed,



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it would introduce a new cause of action. The learned District Munsif would have none of this argument and allowed the application and permitted the amendment in and by way of his order dated 21.03.2024 in I.A.No.74 of 2023. Challenging the same, the present revision.

5. Heard Mr.B.Manoharan for the petitioner.

6. The aforesaid discussion would show that the suit, even after the amendment, continues to be one for declaration of title and for injunction. The plaintiff would have to stand or fall on the basis of the pleadings with which he has come forth before the trial Court. All that he seeks for by way of amendment application is an additional prayer to declare that the cancellation deed dated 22.04.2013 is null and void. He has also paid the appropriate court fees to that effect. By granting the amendment, the character and the nature of the suit does not change and it continues to be one for declaration of title and permanent injunction. When the frame of suit and the cause of action do not change, there is no bar in allowing the amendment application as has been done by the learned District Munsif cum Judicial Magistrate at Cheyyur.



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7. I do not have any reasons to interfere with the order dated 21.03.2024 passed in I.A.No.74 of 2023 in O.S.No.38 of 2021. The civil revision petition is, accordingly, dismissed.

8. The plea of limitation that is being raised by Mr.B.Manoharan can of course be taken by the defendants in their written statement and I am sure that if such plea is taken, the learned Judge would frame an appropriate issue and decide the matter.

9. There shall be no order as to costs. Consequently, C.M.P. No.13298 of 2024 is closed.

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Index : Yes/No
Neutral Citation : Yes/No

sra

To

The District Munsif cum Judicial Magistrate,
Cheyyur.



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V. LAKSHMINARAYANAN, J.

(sra)

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