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C.R.P.No.3711 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

C.R.P.No.3711 of 2022
and C.M.P.No.19620 of 2022

1. Mani @ K.Madhavan
2. M.Mohanraj
3. K.Shanmugasundaram
4. S.Loganand
5. K.Chandrasekaran
6. C.Kavinkumar

.. Petitioners

Vs.

1. Annakodi @ Annapoorani
2. Dhana Bakkiam
3. Parameswari
4. Vijayalakshmi
5. Dhana Bakkiam
6. K.S.Padmanaban
7. The District Collector,
Erode District,
Erode.
8. The Revenue Divisional Officer,
Erode District,
Erode.
9. The Tahsildar,
Perundurai Taluk,
Perundurai.

.. Respondents



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Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and final order dated 16.09.2022 in I.A.No.2 of 2022 in O.S.No.38 of 2017 on the file of District Munsif Court, Perundurai.

For Petitioners : Mr.S.Kaithamalai Kumaran

For Respondent : Mr.V.V.Sathya
for R1 to R6

Mr.T.Arun Kumar
Additional Govt. Pleader
for R7 to R9

ORDER

This Civil Revision Petition has been filed against the fair and final order passed by the learned District Munsif, Perundurai in I.A.No.2 of 2022 in O.S.No.38 of 2017 dated 16.09.2022.

2. According to the petitioners / defendants 4 to 9, the respondents 1 to 6 / plaintiffs have filed a suit in O.S.No.38 of 2017 for the relief of mandatory injunction to grant patta and also for permanent injunction from interfering the plaintiff's peaceful possession. In the said suit, an



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application under Order 6 Rule 17 C.P.C. was filed by the respondents 1 to 6 herein in I.A.No.2/2022, to amend the plaint and the same was allowed by the learned District Munsif, Perundurai. In the said application there were no pleadings to substantiate the claim of the petitioners therein but they have filed an affidavit in a casual manner and based on the said affidavit the trial Court, without any discussions, has simply passed an order by allowing the said application. Aggrieved over the said order, the present Civil Revision Petition is filed.

3. The learned counsel for the respondents 1 to 6 submitted that the respondents 1 to 6 have filed a suit for mandatory injunction and permanent injunction and thereafter they filed an application to amend the prayer for declaration. The trial Court, after considering the facts and circumstances of the case, allowed the said application. It is further submitted that the respondents 1 to 6 have stated proper reasons in the affidavit filed in support of the said amendment application and thereafter only the trial Court has passed the order. Hence, the present Civil Revision Petition is liable to be dismissed.



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4. The learned Additional Government Pleader for the respondents 7 to 9, submitted that the property is classified as 'Grama Natham' and therefore, the patta cannot be granted in favour of the plaintiffs.

5. Heard both sides and perused the materials available on record.

6. On perusal of the order passed by the trial Court, it is seen that the respondents 1 to 6 have filed an application before the trial Court for amending the prayer in the suit. Initially, they have filed a suit for mandatory and permanent injunction and thereafter they sought the relief of declaration by way of amendment. The trial Court, without much discussions has passed the order in the said application by simply stating that the application is allowed in order to avoid multiplicity of proceedings and for proper adjudication.

7. The said order passed by the trial Court is not in accordance with law and unsustainable and hence the same is liable to be set aside. Since the trial Court has not properly considered the facts and circumstances of the said application and passed the order, it is appropriate to remand back



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the case for fresh consideration by the trial Court.

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8. In the result, the Civil Revision Petition is allowed and the fair and final order passed by the learned District Munsif, Perundurai in I.A.No.2/2022 in O.S.No.38/2017, is hereby set aside and the case is remanded to trial Court for fresh hearing. The learned District Munsif, Perundurai is directed to dispose of I.A.No.2/2022 in O.S.No.38/2017, within a period of two months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

10.06.2024

Index: Yes / No

Speaking order / Non speaking order

Neutral Citation : Yes / No

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Copy to:

The District Munsif,
Perundurai.



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P.DHANABAL, J.,

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