



CRP.No.1674 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2024

CORAM:

THE HONOURABLE Mr.JUSTICE V.LAKSHMINARAYANAN

CRP.No.1674 of 2024
and CMP.No.8811 of 2024

1.S.Balasekaran
2.B.Jayasundar @ B.Sundar ... Petitioners

Vs

Sarojini Ammal ... Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decreetal order dated 28.04.2023 passed in I.A.No.01 of 2022 in O.S.No.143 of 2018 on the file of District Munsif, Sriperumbudur, by allowing this revision.

For Petitioner : Mr.P.Muthusamy



CRP.No.1674 of 2024

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ORDER

This civil revision petition has been filed to set aside the fair and decretal order dated 28.04.2023 passed in I.A.No.01/2022 in O.S.No.143/2018 on the file of District Munsif, Sriperumbudur. The revision petitioners are the defendants in the suit.

2. The suit in O.S.No.143/2018 was originally filed for bare injunction. On service of summons, the defendants entered appearance and filed their written statement questioning the title of the plaintiff. Left with no other option, following the principle laid by the Supreme Court in ***Anathula Sudhakar Vs P.Buchi Reddy*** [(2008) 4 SCC 594], the plaintiff filed an application in I.A.No.01/2022 for amendment of the plaint. The said application was allowed by the learned Judge. Against which, the present revision is filed by the revision petitioners/defendants.

3. Mr.P.Muthusamy, learned counsel for the revision petitioners/defendants urged on two grounds. They are :



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- a) the amendment is barred by time;
- b) if the amendment is allowed, the Trial Court will lose jurisdiction.

4. I am not in agreement with Mr.P.Muthusamy on the above two grounds. As held by Supreme Court in *Anathula Sudhakar Vs P.Buchi Reddy* case, where cloud over title is created by the defendants, then it is open to the plaintiff to file an amendment application seeking declaration of title. Refer paragraph Nos.13.1 to 13.4 cited supra. This is what the plaintiff has done in the present case.

5. Insofar as the jurisdiction of the learned District Munsif is concerned, as long as the amendment application is pending, the Court retains the jurisdiction to allow the application. It loses the jurisdiction only after the amendment is allowed and carried out. Since both the points fail, I am not in a position to interfere with the order of the learned District Munsif, Sriperumbudur in I.A.No.01/2022.

6. In the result, the civil revision petition stands dismissed and the order of the District Munsif, Sriperumbudur dated 28.04.2023 in



CRP.No.1674 of 2024

I.A.No.01/2022 is confirmed.

No costs. Consequently, connected

miscellaneous petition is closed.

18.04.2024

Index:Yes/No

Internet:Yes/No

Speaking order/Non-speaking order
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To:

1.The District Munsif
Sriperumbudur.

2.The Section Officer
VR Section, High Court, Madras.



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CRP.No.1674 of 2024

V.LAKSHMINARAYANAN,J.

ds

CRP.No.1674 of 2024

18.04.2024