



C.R.P.(PD).No.160 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

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N.Natarajan

... Petitioner

vs.

1.Thengumarahada Co-operative Farming Society,
Rep. By its Special Officer and Co-operative Registrar,
Thengumarahada, via, Bhavanisagar,
Nilgiris District.

2.The Joint Sub Registrar of Co-operatives,
Udhagamandalam, Nilgiris District.

3.The District Collector,
Udhagamandalam, Nilgiris District.

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair and decretal Order dated 31.07.2019 passed in I.A.No.102 of 2018 in A.S.No.53 of 2017 by Subordinate Judge, Coonoor and allow the application I.A.No.102 of 2018 in A.S.No.53 of 2017 pending



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on the file of Subordinate Judge, Coonoor.

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For Petitioner	: Mr.C.A.Diwakar
For Respondents	: Mr.R.Balaramesh for R1
	Mr.C.Sathish
	Government Advocate for R2 and R3

ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below, dismissing the application filed by the petitioner seeking to amend the plaint at the stage of first appeal.

2. The petitioner herein filed a suit against the respondents seeking declaration of his title and delivery of possession and also other reliefs. The suit was dismissed by the trial Court on the ground of non-joinder of Government of Tamil Nadu which is said to be the owner of the suit property. Aggrieved by the same, the petitioner preferred an appeal.

3. Pending the first appeal, he filed instant application seeking amendment of the plaint so as to include the words 'Government of Tamil Nadu represented by' as a prefix to the 3rd respondent/District Collector,



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Udhagamandalam. The said application was dismissed by the First Appellate Court on the ground that inspite of objection by the contesting defendants with regard to the non-joinder of Government as a party, the petitioner failed to take any steps for amendment of the plaint so as to include the Government as a party. Aggrieved by the same, the petitioner is before this Court.

4. The learned counsel appearing for the petitioner submitted that the District Collector, Udhagamandalam, who is representative of the Government is already made as a party and the petitioner failed to mention the name of the Government of Tamil Nadu in the cause title and the amendment application was dismissed by the First Appellate Court by taking hyper technical view of the matter.

5. It is seen from the typed set of papers, the plea with regard to non-joinder of Government was taken before the trial Court and the trial Court dismissed the suit by holding that the non-joinder of Government is fatal to the suit.



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6. The petitioner/plaintiff was held to be not entitled to declaration of title due to non-joinder of the necessary party, namely the State Government. When the objection regarding the non-joinder of Government was raised by the contesting defendants before the trial Court itself and issue was also framed regarding the same, the plaintiff had an amicable opportunity to take necessary steps to amend the cause title and include the Government as a party. Having failed to do so, the petitioner is not entitled to file an amendment application to include the Government in the First Appellate stage.

7. The petitioner failed to establish that inspite of exercise of duty, he was prevented from filing the amendment application at pre-trial stage. Hence, in view of proviso to Order 6 Rule 17 of CPC, the amendment application deserves dismissal.

8. I do not find any error in the order passed by the Court below.



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Accordingly, the Civil Revision Petition is dismissed. However, it is always open to the petitioner to file a fresh suit by impleading the Government as a party, if it is permissible in law. No cost.

13.02.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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To

The Subordinate Judge,
Coonoor.



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S.SOUNTHAR, J.

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