



C.R.P.(MD)No.520 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 04.10.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.520 of 2023

and

C.M.P.(MD)No.2495 of 2023

TREC-STEP,
Rep. by its Executive Director,
RMP Jawahar,
Thuvakudi,
Thiruvarambur Taluk,
Tiruchirappalli.

... Petitioner / Respondent / 1st Defendant

Vs.

K.Vadivel

... Respondent / Petitioner / Plaintiff

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 27.10.2022 made in I.A.No. 6 of 2022 in O.S.No.103 of 2014 on the file of the II Additional District Judge, Tiruchirappalli.

For Petitioner : Mr.K.Prabhakar

For Respondent : Mr.R.Srinivas
Senior Counsel
for Mr.C.Murugavel



C.R.P.(MD)No.520 of 2023

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ORDER

Heard the learned counsel for the revision petitioner and the learned senior counsel assisted by the learned counsel for the respondent.

2. The revision petitioner is the first defendant in O.S.No.103 of 2014 on the file of the second Additional District Judge, Tiruchirappalli. The plaintiff was terminated from service by the revision petitioner. Questioning the same, the plaintiff filed the said suit. In the said suit, the plaintiff filed I.A.No.6 of 2022 under Order 6 Rule 17 of C.P.C for amending the plaint and for adding two prayers. The said IA was allowed vide order dated 27.10.2022. Questioning the same, the civil revision petition came to be filed.

3. The original prayer in the suit is for declaring the dismissal order dated 23.10.2014 as null and void and for other reliefs. By the impugned amendment, the petitioner wants to question the very registration of the first defendant society and he also seeks appointment of the liquidator to secure the assets and interests of the said society.

4. As rightly pointed out by the learned counsel for the petitioner, this



C.R.P.(MD)No.520 of 2023

amendment alters the character of the suit. More than anything else, the trial in the suit has already concluded and the case is posted for argument. Amendment can be classified into two; Pre trial amendment and post trial amendment. While pre trial amendments will have to be liberally allowed, strict yardstick will be applied to the post trial amendments. The plaintiff seeking amendment should satisfy what is known as due diligence test. In this case, the plaintiff fails on that score. It also alters the character of the suit to some extent by addition of prayers. I however make it clear that it will be open to the plaintiff to contend at the time of argument that the first defendant society as the newly formed society has no authority or jurisdiction to dismiss him since he was appointed by another society which had become defunct.

5. In this view of the matter, the impugned order is set aside. With the aforesaid liberty to the plaintiff, the Civil Revision Petition is allowed. No costs. The court below is directed to dispose of the suit on merits and in accordance with law within a period of three months from the next hearing date. Consequently, connected miscellaneous petition is closed.

04.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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G.R.SWAMINATHAN, J.



C.R.P.(MD)No.520 of 2023

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To:

The II Additional District Judge, Tiruchirappalli.

C.R.P.(MD)No.520 of 2023

04.10.2024