



C.R.P(MD)Nos.651 & 652 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.02.2024

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

C.R.P(MD)Nos.651 & 652 of 2021
and
C.M.P(MD)Nos.3551 & 3552 of 2021

In Both the Cases:

M.Subban

... Petitioner/Petitioner/
Plaintiff

Vs.

Muthan (Died)

1.Sundarraaj

2.Eahampal

3.Meenal

4.Anjammal

... Respondents/Respondents/
Defendant

Prayer in C.R.P(MD)No.651 of 2021 : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 02.03.2021 in I.A.No.40 of 2020 in O.S.No.42 of 2014 on the file of the District Munsif Court, Aranthangi.



C.R.P(MD)Nos.651 & 652 of 2021

Prayer in C.R.P(MD)No.652 of 2021 : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 02.03.2021 in I.A.No.41 of 2020 in O.S.No.42 of 2014 on the file of the District Munsif Court, Aranthangi.

In Both the Cases:

For Petitioner : Mr.P.Ganapathi Subramanian

For Respondents : Mr.S.T.Sasidharan
for M/s.Tamilkani

COMMON ORDER

The petitioner herein is the sole plaintiff in O.S.No.42 of 2014 on the file of the Court of the District Munsif Court, Aranthangi. The said suit was filed seeking a permanent injunction against the respondents / defendants in respect of the suit schedule property. The entire trial in the suit has concluded. At that stage, the petitioner herein filed I.A.No.40 of 2020 under Order 6, Rule 17 of CPC seeking amendment of the prayer in the main suit to that of declaration of title over the suit schedule property instead of permanent injunction as originally sought for. The learned Trial Court dismissed the said application on the ground of delay and laches on the part of the petitioner herein.



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2. Today when the matter is taken up for consideration and on being asked, the learned Counsel for the petitioner submitted that the petitioner herein is not intending to adduce any further evidence in the matter and only seeking the amendment as sought for in the prayer only and ready to proceed with arguments in the main suit for disposal before the learned Trial Court. The law is well settled with regard to the amendment of pleadings and the Hon'ble Apex Court time and again held that the amendment of pleadings should be allowed liberally with a view to avoid multiplicity of proceedings and also to resolve the actual issue between the parties, to put an end to the litigation once for all. Hence, this Court is inclined to consider the request for amendment of the prayer in the main suit.

3. In the instant case, though petitioner originally filed the suit for permanent injunction, having realised that it is necessary to seek declaration of title as well and chosen to amend the prayer in the main suit. Even if the said amendment is not allowed now and incase, if the petitioner is going to loose the suit filed for permanent injunction, he may resort to filing a fresh suit seeking declaration of title. Even if the suit is decreed in favour of the petitioner also the defendants may have to initiate fresh proceedings as they are also making a



claim of title over the very same property. As both the parties have already adduced the respective evidence by making their respective claim over the suit schedule property, if the amendment is allowed, the issue would be resolved once for all between the parties. Therefore, it is all the more in the interest of both the parties to permit the amendment as sought for.

4. However, considering the fact that the suit is of the year 2014 and the application seeking amendment of the prayer is filed only in the year 2020, this Court is of the considered view that the respondents can be compensated in terms of money by imposing appropriate cost, especially in the context of the fact that no prejudice would be caused to the respondents, if the proposed amendment is allowed.

5. In the light of the above, the order under revision passed in I.A.No.40 of 2020 is set aside and consequently I.A.No.40 of 2020 filed under Order 6, Rule 17 is allowed permitting amendment of the prayer as sought for subject to petitioner paying a cost of Rs.3,000/- to the respondents within a period of two weeks from today.



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6. Consequent upon the order passed in C.R.P(MD)No.651 of 2021 and for the reasons alike, C.R.P(MD)No.652 of 2021 is also ordered as prayed for. The learned trial Court is further directed to dispose of the suit as expeditiously as possible at any rate on or before **30.04.2024.**

7. In the result, these Civil Revision Petitions stand allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

29.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

- 1.The District Munsif Court,
Aranthangi.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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MUMMINENI SUDHEER KUMAR, J.

BTR

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