



CRP(MD).No.888 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 04.07.2024

CORAM

**THE HONOURABLE MR JUSTICE D.BHARATHA
CHAKRAVARTHY**

C.R.P(MD)No.888 of 2022

Ananthan(died)

1.Mariamammal

2.Anitha

3.Alagappan

4.Rathika

... Petitioners

(P1 to P4 are impleaded vide Court order dated 04.07.2024)

-Vs-

M.S.Natarajan

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 08.03.2022 made in I.A.No.73 of 2022 in O.S.No.148 of 2015 on the file of the Additional Subordinate Court, Pudukkottai.

For Petitioners : Mr.S.I.Muthiah

For Respondent : Mr.M.Mahaboob Athiff



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ORDER

This civil revision petition is filed aggrieved by the fair and decreetal order dated 08.03.2022 made in I.A.No.73 of 2022 in O.S.No. 148 of 2015 on the file of the Additional Subordinate Court, Pudukkottai.

2. In the said Interlocutory Application, the respondent had prayed to amend the plaint. The plaint is filed for declaration of title and for recovery of possession from the defendant. Earlier, the defendant has filed a bare injunction suit and got decree in his favour. However, it is stated that in the said suit, the title is not decided and therefore, the comprehensive suit is now filed. The suit was resisted by the defendant by filing a written statement. During the trial, when P.W.1 was in the box, he was confronted with the question that whether the alleged purchase was in the name of partnership firm or in the name of the individual. After answering the said question, the present application is filed by the plaintiff that the original purchase as disclosed in the plaint is in the name of the partnership firm and accordingly, he wants to alter the cause-title and in the other place so as to bring the necessary amendment to show as the



plaintiff is claiming as a partner of the firm. The said application was allowed by the trial Court, aggrieved by which, the present civil revision petition is filed.

3. The learned counsel appearing on behalf of the petitioner/defendant would submit that when the original case of the defendant is that he is the owner of the property and parties have gone into trial with the said pleadings, only because the defendant elicited the answer from the P.W.1 in the cross-examination so as to fill up the lacuna the application cannot be belatedly filed after the commencement of the trial. In the written statement itself the stand has been taken by the defendant. The amendment changes the character of the suit and is also belated and therefore, the trial Court ought to have dismissed the same.

4. Per contra, the learned counsel appearing for the respondent would submit that the property is in the possession of the respondent/plaintiff. The plaintiff is the owner of the property having purchased the same in the name of the partnership firm along with the other partners. At the time of institution of the suit, the description with



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reference to the name of the plaintiff is made as if he is an individual owner of the property and therefore, when the very same sale deed dated 19.01.2005 is relied upon by the plaintiff to claim title and when the over all nature of the case and facts and circumstances of the case has not changed, the amendment becomes only formal and trial Court rightly allowed the same.

5. I have considered the rival submission made on either side and perused the materials record of the case.

6. The *lis* between the parties is very clear. On behalf of the plaintiff's side, it is claimed that one Manickam Chettiar was the original owner of the property. From the said Manickam Chettiar on 30.06.1970 the property was purchased by one Adaikan. The claim of the plaintiff that Adaikan has sold the property to him by the sale deed dated 19.01.2005 registered at the office of the Sub-Registrar, Thirumayam, as Doc No.53 of 2005. The defendant resists the said suit. It is admitted by the defendant that Manickam Chettiar is the original owner and thereafter, Adaikan is the owner. The said Adaikan had executed a settlement deed in favour of the



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defendant on 07.07.1994. The defendant is in possession and enjoyment of the property on the strength of the said settlement deed.

7. It can be seen that the said settlement deed dated 07.07.1994 is an unregistered settlement deed. Therefore, the entire issue of allowing the amendment has to be seen in the backdrop of the said case of the parties. Seen from that backdrop, it can be seen that the title is claimed by the plaintiff based on the sale deed and there is no change in the case between the parties. Instead of describing the plaintiff as the partner of the partnership firm it was described in the individual capacity. Therefore, in the particular context and facts and circumstances of the case, I view the amendment as only a formal in nature and does not in any manner alter the nature of the case and does not in any manner prejudice the case of the petitioner /defendant.

8. In that view of the matter, this Court finds no merits in the civil revision petition. Accordingly, the Civil Revision Petition is dismissed. However, since the amendment is permitted relating to the description of the plaintiff as partnership firm, the petitioner can file additional written



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statement and if the same is filed within a period of three weeks from the date of receipt of a copy of this order, the same shall be taken on file by the trial Court. No costs.

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(2/2)

Index : Yes / No

Internet : Yes/ No

Rmk

To

- 1.The Additional Subordinate Judge, Pudukkottai.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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D.BHARATHA CHAKRAVARTHY, J.

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