



C.RP(MD)No.1469 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated: 08.07.2024

CORAM

THE HONOURABLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P(MD)No.1469 of 2024

and

C.M.P(MD).No.8691 of 2024

Jeyakodi

... Petitioner

Vs.

Chandrasekar

...Respondent

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 27.02.2024 made in I.A.No. 4 of 2023 in O.S.No.319 of 2012 on the file of the Principal District Munsif Court, Musiri.

For Petitioner

: Mr.G.Sridharan

ORDER

This civil revision petition is filed against the fair and decreetal order dated 27.02.2024 in I.A.No.4 of 2023 in O.S.No.319 of 2012 passed by the learned Principal District Munsif, Musiri. In the said interlocutory application, the petitioner has prayed to amend the plaint. The petitioner wanted to amend the relief by way of including yet another relief of mandatory injunction



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directing the defendant to restore the B-Scheduled pathway. It is the case of the petitioner that pending the suit, the pathway has been obliterated.

2. The learned counsel appearing on behalf of the petitioner would submit that though it is true that the date and time of obliteration of the pathway is not expressly mentioned in the affidavit, however, it has been specifically mentioned in the affidavit that pendente lite the pathway has been destroyed by the defendant and therefore, it is just and necessary that a specific relief is to be added in respect thereof.

3. I have considered the said submission made on behalf of the learned counsel for the petitioner and perused the materials record of the case.

4. The original prayer in the suit is to restrain the defendant from interfering with the plaintiff's access to his Schedule-A property through Schedule-B common pathway. If that be so, if the suit is decreed, the plaintiff would be entitled to use the pathway. It can be seen that neither any time was mentioned in the amendment petition and even though the suit was filed in the year 2012, until 2024 the plaintiff has also not filed any application to appoint an Advocate Commissioner to note down about the common pathway. In these



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circumstances, holding that firstly the amendment itself was unnecessary and secondly, the reason of the Trial Court cannot also be interfered with, especially, in the absence of a specific averment regarding the obliteration of the pathway, I am of the view that the order of the Trial Court cannot be interfered with at this stage. The Civil Revision Petition is dismissed with the above observation. No costs. Consequently, connected Miscellaneous Petition is closed.

08.07.2024

NCC:Yes/No
Index:Yes/No
Rmk

To
1.The Principal District Munsif, Musiri.

2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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D.BHARATHA CHAKRAVARTHY, J.

Rmk

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