



C.R.P.(MD)No.1517 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 09.08.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.1517 of 2024

and

C.M.P.(MD)No.8918 of 2024

Nainar Mohamad

...Petitioner/Petitioner/Plaintiff

Vs.

1.Salim

2.Mohamad Maideen

3.Mohamad Sheikh Barith

... Respondents/Respondents/Defendants

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 12.03.2024 made in I.A.No.4 of 2023 in O.S.No.136 of 2023 on the file of the District Munsif, Uthamapalayam.

For Petitioner : Mr.G.Vanjinathan

For Respondents : Mr.P.Santhosh Kumar

* * *

ORDER

Heard both sides.



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2.The plaintiff in O.S.No.136 of 2023 on the file of the District Munsif Court, Uthamapalayam is the revision petitioner herein. The suit was filed for permanent injunction restraining the defendants from dispossessing the plaintiff except by due process of law. In the said suit, the plaintiff filed I.A.No.4 of 2023 for including the lands in S.Nos.19/1 and 20/1. The defendants filed counter affidavit opposing the prayer for amendment. The learned trial Munsif vide order dated 12.03.2024 dismissed the I.A. Challenging the same, this civil revision petition came to be filed.

3.The learned counsel for the revision petitioner reiterated all the contentions set out in the memorandum of grounds. He pointed out that the suit itself is of the year 2023 and that since only pre-trial amendment is sought, the Court below ought to have been sufficiently liberal. He called upon this Court to set aside the impugned order and grant relief as prayed for.

4.The learned counsel for the respondents submitted that the impugned order is well reasoned and that interference is not warranted. He prayed for dismissal of the civil revision petition.



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5.I carefully considered the rival contentions and went through the materials on record. The petitioner has claimed relief on the basis that he is the cultivating tenant of the suit property. I went through the contents of the plaint. According to the plaintiff, he is cultivating the lands comprised in S.Nos.21/1, 21/3, 23/2 and 24/1 in Uthamapalayam Southern Revenue Village. In the plaint averments, there is absolutely no reference whatsoever to the lands comprised in S.Nos.19/1 and 20/1. Order VI Rule 17 of Civil Procedure Code enables amendment of pleadings, if there are necessary for the purpose of determining the real questions in controversy between the parties. In the original plaint, there is absolutely no reference whatsoever to the lands comprised in S.Nos.19/1 and 20/1. The Court below has also rendered a finding that the plaintiff has taken a contradictory stand. The impugned order does not warrant interference and the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

09.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

The District Munsif Court,
Uthamapalayam.



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G.R.SWAMINATHAN, J.

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