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C.R.P.(MD)No.1912 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.1912 of 2024 and
C.M.P.(MD)No.10841 of 2024

V.Sukumaran,
S/o.N.Venkatachalam,
Assistant Professor,
Department of Zoology,
Kundavainaacchiyar Government Arts College
for Women(Autonomous),
Thanjavur – 613 007.

... Petitioner/ Petitioner/
Plaintiff

Vs.

A.Thiruvalluvar

... Respondent/Respondent/
Defendant

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records pertaining to the order dated 27.06.2024 in I.A.No.3 of 2024 in O.S.No.444 of 2023 on the file of the Additional Subordinate Judge, Thanjavur and to set aside the same.

For Petitioner : Ms.U.Nirmalarani

For Respondent : Mr.C.Sankar Prakash



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ORDER

Heard both sides.

2. The plaintiff in O.S.No.444 of 2023 on the file of the Sub Court, Thanjavur is the revision petitioner herein. The suit has been laid claiming damages from the defendant on the ground that he had defamed the plaintiff. The plaintiff filed I.A.No.3 of 2024 for adding some more plaint averments. I.A was dismissed vide order dated 27.06.2024. Questioning the same, this civil revision petition has been filed.

3. The learned counsel appearing for the revision petitioner reiterated all the contentions set out in the memorandum of grounds of civil revision. He pointed out that since the amendment has been sought at the pre-trial stage, liberal approach is warranted. He added that the amendment does not seek to alter the controversy of the suit. The averments now sought are in tandem with the pleadings already made. He called upon this Court to set aside the impugned order and allow the civil revision petition.

4. Per contra, the learned counsel appearing for the respondent submitted that the impugned order is well reasoned and that it does not



warrant interference. He relied on the decision reported in **(2009) 1 SCC 84 (M/S. Revajeetu Builders & Developers vs M/S. Narayanaswamy & Sons & Ors.)**.

5. I carefully considered the rival contentions and went through the materials on record.

6. The revision petitioner herein was employed as Assistant Professor in the Department of Zoology in Kundhavai Naachiyar Government Arts College for Women(Autonomous), Thanjavur. The respondent herein was working as a Principal of the said institution. According to the plaintiff, the defendant by his conduct had defamed his name and that the defendant is liable to compensate him. Whether the defendant defamed the plaintiff or not is not the issue before me now. It can be gone into only in the trial and it cannot be determined and decided at this stage. The only question that calls for consideration is whether the Court below was justified in dismissing I.A.No.3 of 2024.



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7. I.A.No.3 of 2024 was filed under Order 6 Rule 17 CPC. The said provision reads as follows:-

“17. Amendment of pleadings.—The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial. ”

8. It is true that the pre-trial amendment will have to be liberally approached. But then, the very object of seeking amendment is to enable the Court to determine the root question of controversy between the parties. The Hon'ble Supreme Court in the decision reported in **(2009) 1 SCC 84 (M/S. Revajeetu Builders & Developers vs M/S. Narayanaswamy & Sons & Ors.)** had held that the first condition which must be satisfied before the amendment can be allowed by the court is



whether such amendment is necessary for the determination of the real question in controversy. If that condition is not satisfied, the amendment cannot be allowed. This is the basic test which should govern the courts' discretion in grant or refusal of the amendment. The Court below applied the aforesaid ratio and came to the conclusion that the amendment sought to be made pertains to the plaintiff's credentials and that they do not really aid in adjudicating the issue between the parties.

9. The Court below has exercised its discretion against the plaintiffs. I am clearly of the view that the impugned order is well reasoned and that there is no misdirection either in law or on facts. Interference by exercising my jurisdiction under Article 227 of the Constitution of India is not called for. This civil revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

11.09.2024

Index : yes/No
Internet: Yes/No
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C.R.P.(MD)No.1912 of 2024

G.R.SWAMINATHAN,J.

PMU

To

The Additional Subordinate Judge,
Thanjavur.

C.R.P.(MD)No.1912 of 2024

11.09.2024