



C.R.P.(MD)No.2191 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 18.09.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.2191 of 2024
and
C.M.P.(MD)No.12447 of 2024

Paulraj

... Petitioner / Petitioner / Plaintiff

Vs.

Subbammal

... Respondent / Respondent / Defendant

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records relating to the fair and decreetal order in I.A.No.1 of 2024 in O.S.No.68 of 2024 passed by the Principal District Munsif Court, Tenkasi dated 10.07.2024 and set aside the same by allowing the civil revision petition.

For Petitioner : Mr.K.P.Narayanakumar

ORDER

Heard the learned counsel for the revision petitioner.



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2. The plaintiff in O.S.No.68 of 2024 on the file of the Principal District Munsif Court, Tenkasi is the revision petitioner herein. The plaintiff filed the said suit for declaration and permanent injunction. In the said suit, the plaintiff filed I.A.No.1 of 2023 for amending the plaint by including the prayer for setting aside the earlier decree made in O.S.No.209 of 2007. IA was dismissed by the court below. Questioning the same, this civil revision petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the memorandum of revision.

4. I am not swayed by the said submission. The present suit was originally instituted way back in the year 2015. The case had progressed upto the argument stage. While pre trial amendment is allowed liberally, the same cannot be the approach in the case of post trial amendment. The written statement was filed in 2017. Copy of the written statement has been enclosed in the typed set of papers. There is a clear reference to the institution of O.S.No.209 of 2007 and passing of the decree. Therefore, amendment should have been made if at all then itself. That is why, the court below declined to entertain the petition for amendment at the belated stage. It is for the petitioner to overcome the earlier decree in the manner known to law. By filing an



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amendment petition, such object cannot be achieved. This is all the more so

because, the plaintiff's father against whom the decree was passed is no more.

The cost imposed on the petitioner is set aside. The impugned order is sustained in all other respects. The civil revision petition is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

18.09.2024

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

The Principal District Munsif Court, Tenkasi.



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G.R.SWAMINATHAN, J.

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