



C.R.P.(MD)No.2241 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATE : 29.02.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.2241 of 2019
and
C.M.P.(MD)No.11606 of 2019

Vijayalakshmi : Petitioner/Petitioner/Plaintiff

Vs.

1.S.Kalaiselvan

2.Thirunavukkarasar

3.Mary Stella : Respondents/Respondents/
Defendants

Prayer : This Civil Revision Petition filed under Section 227 of Constitution of India, to set aside the fair and decreetal order passed in I.A.No.2 of 2019 in O.S.No.158 of 2010 on the file of the Additional District Munsif Court, Sankarankovil, dated 30.08.2019.

For Petitioner : Mr.T.Selvan

For Respondents : Mr.MThirunavukarasu



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ORDER

The Civil Revision Petition is directed against the order passed in I.A.No.2 of 2019 in O.S.No.158 of 2010, dated 30.08.2019 on the file of the Additional District Munsif Court, Sankarankovil, dismissing the petition filed under Order VI Rule 17 of the Code of Civil Procedure.

2.The revision petitioner as plaintiff has filed the above suit claiming permanent injunction restraining the defendants and their men from making any constructions and from interfering with the peaceful possession and enjoyment of the second schedule of property, which is part of the first schedule of property and also mandatory injunction for the removal of constructions allegedly made by the first defendant.

3. It is not in dispute that the trial has already been completed and when the case was pending for arguments, the above petition came to be filed, seeking permission to amend the plaint. It is also not in dispute that pending suit, a portion of the suit property was sold by the revision petitioner/plaintiff to the first respondent/first defendant.



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4. The learned counsel for the revision petitioner would submit that the proposed amendment was necessitated, consequent to the sale made by him to the first defendant during the pendency of the suit.

5. The learned counsel for the respondents would submit that there is no dispute that he has purchased the portion of the property from the plaintiff during the pendency of the suit and that since the case is pending for arguments, the proposed amendment is not necessary for deciding the issues involved in the suit.

6. When the matter is taken for hearing today (i.e., 29.02.2024), the learned counsel for the petitioner would submit that he is restricting the proposed amendment shown as item Nos.1 and 2 in the petition filed under Order VI Rule 17 C.P.C., with regard to the subsequent sale made by him to the first defendant.

7. The learned counsel for the respondents would submit that they are also not having any objection provided that they should be given an



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opportunity to file an additional written statement, that the revision petitioner should not adduce any further evidence with regard to the proposed amendment and that the learned trial Judge may be directed to proceed with the arguments and to dispose of the suit within a time stipulated by this Court.

8. The learned counsel on either side would submit that they are not having any further evidence consequent to the amendment.

9. Considering the facts and circumstances of the case and also the submissions made by the learned counsel on either side, this Court is inclined to permit the proposed amendments 1 and 2 alone and the revision is dismissed with regard to the other two amendments. The revision petitioner/plaintiff is directed to file the amended plaint copy and to carry out the necessary amendments within one week from the date of receipt of copy of this order and the respondents are directed to file their written statement, if any within one week thereafter and that the trial Court is directed to proceed further and dispose of the suit within one month thereafter.



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10. With the above directions, the Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

29.02.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
das

Note : Issue order copy on **06.03.2024**.

To

- 1.The Additional District Munsif Court,
Sankarankovil.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

das

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and
C.M.P.(MD)No.11606 of 2019

Dated : 29.02.2024