



C.R.P(MD)No.3039 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED:13.03.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P(MD)No.3039 of 2023

and

C.M.P.(MD)No.15630 of 2023

K.C.Subramanian

.. Petitioner/Plaintiff

Vs.

1.Mathivannan

2.Kudalarasan

.. Respondents / Defendants

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 28.08.2023 made in I.A.No.8 of 2023 in O.S.No.166 of 2019 on the file of the Additional District Munsif, Ambasamudram.

For Petitioner : Mr.P.Alwin Balan

For Respondents : Mr.N.Ganesh



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ORDER

This revision petition has been filed by the petitioner against the fair and decreetal order dated 28.08.2023 made in I.A.No.8 of 2023 in O.S.No.166 of 2019 on the file of the Additional District Munsif, Ambasamudram.

2. The suit was filed by the revision petitioner for permanent injunction. The defendant entered appearance and also filed the statement denying the title of the plaintiff. Issues were framed by the trial Court. The petitioner subsequently filed an amendment application in I.A.No.8 of 2023 to add the relief of declaration. But the learned trial Judge dismissed the application. Aggrieved over the same, this revision petition has been preferred.

3. Heard the learned counsel appearing for either side and perused the materials available on record.



4. The learned counsel for the revision petitioner submitted that even though the issue is with regard to the title, unless a specific prayer is sought, even if the issue is answered, the same will become ineffective and will create unnecessary problem between the parties in future, hence, to avoid the multiplicity of proceedings, he filed the above amendment petition.

5. Per contra, the learned counsel for the respondents submitted that the petitioner having known that the statement was filed as early as on 24.09.2019, filed the amendment petition belatedly. Hence, he prays for dismissal of this revision.

6. Even though there is a delay on the part of the revision petitioner in filing the amendment petition, since the specific issue is framed with regard to the title, as pointed out by the revision petitioner, unless there is a specific prayer even if the issue is answered. In the trial, the same will become ineffective. Hence, to avoid multiplicity of proceedings, this revision petition is liable to be allowed.



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7. Accordingly, the revision petitioner is directed to pay a cost of Rs.2,000/- to the respondent before the trial Court. With this direction, this Civil Revision Petition is allowed. No Costs. Consequently, connected miscellaneous petition is closed.

13.03.2024

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
PJJ

To
1.The Additional District Munsif,
Ambasamudram.

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



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G.ILANGO VAN, J.

PJL

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