



C.R.P.No.1890 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2025

C O R A M

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

C.R.P.No.1890 of 2023

and

C.M.P.No.12063 of 2023

C.Rangaraj

... Petitioner

Versus

1.Lakshmi

2.C.T. Harilal

3.C.T.Devi

4.C.T.Ravichandran

5.C.T.Rajeshwari

6.M.Sivasamy

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, pleaded to set aside the fair and final order dated 28.02.2023 in I.A.No.4 of 2022 in O.S.No.251 of 2020 on the file of the V-Additional District Court, Coimbatore.

For Petitioner : Mr. N. Krishnakumar

For Respondents : Mr. M.S. Seshadri,
: Ms. Aishwaraya S Nathan,
: and Ms. V. Harini. (for R6)
: R1 – died
: R3 & R4 – Unclaimed
: R2 & R5 – No Appearance



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ORDER

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This civil revision petition has been filed by the plaintiff to set aside the fair and final order dated 28.02.2023 in I.A.No.4 of 2022 in O.S.No.251 of 2020 on the file of the V-Additional District Court, Coimbatore, and whereby, the learned Judge dismissed the petition filed under Order VI Rule 17 of Civil Procedure Code, 1908 r/w 151 of CPC, seeking to amend the plaint.

2. The petitioner/plaintiff in O.S.No.251 of 2020 filed the suit for the following prayer:-

" (a) A declaration of absolute ownership and exclusive possession and enjoyment of the suit property;

(b) A permanent injunction restraining the defendants 1 to 6, their heirs, successors, legal representatives, agents, men servants and/or any other person/s claiming under or through them from in any way encroaching upon and also from disturbing the plaintiff's peaceful possession and enjoyment of the suit property in any manner whatsoever;

(c) An order directing the defendants to pay the plaintiff's Court costs. "



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3. Brief facts of the Case:

i) The suit was filed originally for the relief of declaration and permanent injunction. During the pendency of the suit, the petitioner moved an Application in I.A. No.1 of 2020 under Order XXXIX Rule 1 and 2 r/w Section 151 of CPC., seeking for an interim injunction.

ii) The 6th defendant had filed a written statement denying the plaintiff's title and possession wherein he counter claimed to be the title holder of the property, having possession of the same.

iii) The Trial court, having observed that the 6th defendant was in possession of the property, dismissed the aforesaid injunction application by order dated 11.02.2022.

iv) The order dismissing the injunction application was challenged by the petitioner by filing an Appeal in C.M.A.No.1530 of 2022 before this Court.

v) This Court, by order dated 21.7.2022, having observed that the suit property being a vacant land, question of its possession could not be decided at that stage, without going into the merits of the case, directed the Trial Court to dispose of the suit within nine months after framing issues.



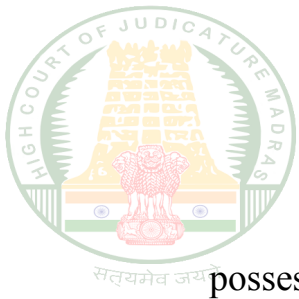
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vi) Subsequently, the plaintiff filed an application in I.A.No.4 of 2022 under Order VI Rule 17 CPC seeking to amend the pleadings in the plaint and to include a relief of mandatory injunction and delivery of possession.

4. The Trial Court, having held that the defendants were in possession of the suit property and the petitioner has not filed the Application for *bona-fide* reasons , dismissed the same by order dated 28.02.2023. Against the said order, the above civil revision petition has been filed before this Court.

5. Learned counsel for the petitioner submits that the suit was filed originally for the relief of declaration of title and permanent injunction restraining the defendants from interfering with the plaintiff's peaceful possession and enjoyment of the property. He further submitted that in order to avoid multiplicity of proceedings and to obtain a larger relief of recovery of possession of the suit property, the petitioner was constrained to file the said I.A.No.4 of 2022, seeking for amendment of plaint and the prayer seeking the relief of mandatory injunction and delivery of



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possession. However, the Trial Court, having held that the defendants are in possession of the property and without entering into the real issues, dismissed the petition, observing that it was not filed for *bona-fide* reasons. In addition, he submitted that the amendment of the plaint would not alter the nature of the suit and that the Trial Court ought to have allowed the petition. Therefore, he prays to allow the revision petition.

6. Learned counsel appearing for the 6th respondent/6th defendant submits that the petitioner had earlier filed I.A. No.1 of 2020 seeking for injunction, which was dismissed against which, the petitioner had filed C.M.A.No.1530 of 2022, and this Court, by order dated 21.07.2022, directed the Trial Court to dispose of the suit within nine months after framing issues. He also submitted that the respondents are in possession of the suit property.

7. Heard the learned counsel for the petitioner and the learned counsel appearing for the 6th respondent and also perused the materials available on record.



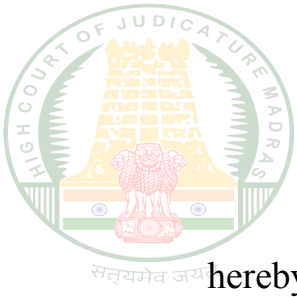
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8. Upon hearing both sides, it is evident that the respondents are in possession of the property as stated in their written statement filed in the suit and in such circumstances, there is every necessity for the petitioner to seek amendment of the plaint and also to seek for the relief of mandatory injunction and delivery of possession, in order to avoid multiplicity of proceedings. Furthermore, this Court feels that the amendment sought for does not alter the character of the suit. Further, admittedly, the Application seeking amendment of plaint was filed at the stage before the commencement of trial.

9. For the foregoing reasons, in the interest of justice, this Court is inclined to allow the revision and set aside the order dated 28.02.2024 passed in I.A.No.4 of 2022 in O.S.No.251 of 2020, permitting the petitioner to amend the plaint.

10. Accordingly, the present Civil Revision Petition is allowed and the order dated 28.02.2024 made in I.A.No.4 of 2022 in O.S.No.251 of 2020 passed by the learned V- Additional District Judge, Coimbatore, is



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hereby set aside. The petitioner is directed to file the amended plaint within one week from the date of receipt of a copy of this order and thereupon, the respondents shall be permitted to file additional written statement, if any, within a week thereon and the Trial Court shall complete the trial proceedings as expeditiously as possible, preferably within a period of six months therefrom. No costs.

21.03.2025

Index : Yes/No

Speaking Order : Yes/No

Neutral Case Citation : Yes/ No

klt/ssk.

To

The V-Additional District Court,
Coimbatore.

A.D.JAGADISH CHANDIRA, J.



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