



CRP.No.3824 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 02.09.2025

CORAM :

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

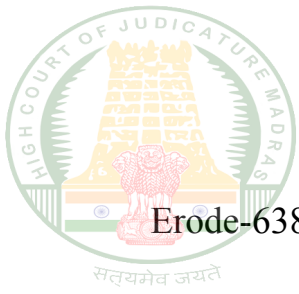
C.R.P.No.3824 of 2023
and CMP.No.23670 of 2023

- 1.C.Palanisamy
- 2.C.Kandasamy
- 3.M.Kathirvel
- 4.R.Anandan
- 5.A.Kathirvel
- 6.G.Sathasivam
- 7.P.Gopal

.. Respondents

vs

- 1.The Chief Administrator of Arulmigu Karuppusamy
Kannimar Temple, Ponnusamy Nadar,
S/o.Kuppusamy, No.25, Narapalayam,
Punnam Village, Bhavani Taluk,
Erode District.
- 2.Eswaran
- 3.The District Collector,
Collectorate, Sampath Nagar,



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Erode-638 011.

4.The Tahsildar,

Office of the Tahsildar,
Bhavani Taluk, Bhavani,
Erode District.

5.The Village Administrative Officer,
Punnam Village,
Bhavani Taluk, Erode District.

... Respondents

(Cause Title accepted vide order dated 05.10.2023
made in CMP.No.21662 of 2023 in
CRP.SRNo.117207 of 2023)

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India
as against the Fair and Decretal Order dated 18.07.2023 made in I.A.No.4 of 2023 in
O.S.No.114 of 2020 on the file of the District Munsif Court, Bhavani.

For Petitioner : Mr.C.Munusamy

For Respondents : Mr.B.Mohan for R2
Mrs.R.Anitha
Special Government Pleader for R3 to R5

ORDER

Unsuccessful defendants have preferred this Civil Revision Petition. The
respondents 1 and 2 / plaintiffs have filed a Suit for Declaration of their rights to



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perform pooja and other rituals of the temple and for injunction in respect of the pathway to the temple. When the case is ripe for trial, the plaintiffs filed a petition for amendment of the prayer in respect of the pathway with certain measurements by seeking declaration of title by easement of necessity. The Court below allowed the said application, against which, the instant civil revision petition has been filed.

2. The learned counsel appearing for the revision petitioner would submit that the amendment of prayer without any pleadings thereon is barred under law. A dominant owner seeking any declaratory or injunction relief relating to an easementary right shall have to plead and prove the nature of easement, manner of acquisition of the easementary right, and the manner of disturbance or obstruction to the easementary right. No such pleadings or averments are available in the plaint. Even according to the plaintiffs, the dominant owner is the Government. There is no reason stated in the affidavit filed in support of the petition seeking amendment of prayer and hence, it is liable to be dismissed.

3. *Per contra*, learned counsel appearing for the respondents would submit that



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the trial has not commenced and the proposed amendment is necessary to decide the real dispute between the parties. Further, adding the relief of declaration with regard to easement of necessity in respect of the pathway is tenable, since the defendants 1 and 2 claim that they are the owners of the lands in and around the temple including the temple and therefore, the plaintiffs are having right to seek such amendment. There are specific pleadings mentioned in the plaint and there is no reason warrants to interference with the order impugned passed by the Court below.

4. It is seen from the plaint that following reliefs have been sought for:

- (a) Declaration of their right to perform poojas and other rituals in the temple;
- (b) Permanent Injunction restraining the defendants 1 to 8 in respect of the pathway which has been shown in Red Colour as “A, B, C, D” in the plaint.

5. It is seen from records that the proposed amendment sought for in the Interlocutory Application in I.A.No.4 of 2023 in O.S.No.114 of 2020 is that a) In the suit schedule property shown the pathway as “A, B, C, D”, East to West admeasuring 150 feet on both sides, North to South – Width admeasuring 40 feet in S.No.397/1; b) The temple is situated in S.No.397/2, East to West both sides measuring 12 meters,



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North to South both sides measuring 12 meters. The above extent has been mentioned in Government FMB. To reach the suit temple North to South Thalavaiaiettai to Paruvachi, East to West, it has been mentioned as “A, B, C, D” in the plaint. The aforesaid pathway lands belong to the defendants 1 and 2 and the suit temple has no pathway except the pathway mentioned as “A, B, C, D” in the plaint. The plaintiffs and the predecessors were continuously using the Suit “A, B, C, D” pathway; c) To declare that the plaintiffs and their men are entitled to use the pathway mentioned as “A, B, C, D” with suit schedule under easementary rights; and d) To add the value of suit schedule property as Rs.5,000/- and consecutive amendment is court fee.

6. At this juncture, it is relevant to order Order 6 Rule 17 CPC, which reads hereunder:

“R.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



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of due diligence, the party could not have raised the matter before the commencement of trial.

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7. It is well settled that the Court must be extremely liberal in granting the prayer for amendment, if the Court is of the view that if the amendment is not allowed, the party praying to amendment shall suffer irreparable loss and injury. It is also equally well settled that there is no absolute rule that in every case where a relief is barred by limitation, amendment should be refused. It is always open to the Court to allow an amendment if it is of the view that allowing it would subserve the ultimate cause of justice.

8. It is to be noted that, the Court below, considering the nature of amendment sought for in the pleadings, held that such an amendment is necessary for the purpose of determining the real question of controversy between the parties. This Court is of the view that if such amendment is not allowed, the respondents 1 and 2/plaintiffs, who has prayed for such an amendment shall suffer irreparable loss and injury. Further, allowing of an amendment shall subserve the ultimate cause of justice and



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avoid further litigation. There is no reason warranting interference with the order impugned passed by the Court below and finds no merit in this civil revision petition.

9. Accordingly, this Civil Revision Petition stands dismissed, confirming the order dated 18.07.2023 made in I.A.No.4 of 2023 in O.S.No.114 of 2020 on the file of the District Munsif Court, Bhavani. No costs. Consequently, connected miscellaneous petition is also dismissed.

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Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

Jvm

To

The District Munsif,
Bhavani, Erode District.



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M.JOTHIRAMAN, J.

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