



WEB COPY



CRP.No.4717 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2025

CORAM:
THE HONOURABLE MR.JUSTICE S.SOUNTHAR
CRP.No.4717 of 2025
and CMP.No.23843 of 2025

Mr.Marcus Fredrick Lazaro

... Petitioner

Vs.

The Chief Executive Officer,
Cantonment Board,
St.Thomas Mount,
Chennai – 600 016.

...Respondent

PRAYER: Civil Revision Petition filed Article 227 of Constitution of India, praying to set aside the fair and decreetal order dated 21.12.2024 made in I.A.No.5 of 2024 in O.S.No.143 of 2011 on the file of the Principal District Munsif, Alandur and to allow the Civil Revision Petition.

For Petitioner
For Respondent

:Mr.A.M.Packianathan Easter
:Mr.C.Mohan
Ms.A.Rexy Josephine Mary
for M/s.King and Partridge

ORDER

The Civil Revision petition is filed challenging the order passed by the trial Court dismissing the application for amendment filed by the petitioner/plaintiff.



2. The petitioner filed a suit for permanent injunction against the respondent. The suit is of the year 2011. It is not in dispute, the trial in the suit has already commenced as DW.1 is in box. At this stage, the petition has been filed by the petitioner seeking amendment of the plaint, so as to include the prayer for recovery of possession.

3. It was the case of the petitioner that earlier *status-quo* order was passed by the Court in application for injunction filed by the petitioner and the said petition was closed based on the undertaking given by both the parties on 19.09.2024. It is further stated that on 03.08.2024, the respondent trespassed into the suit property and hence the petitioner was constrained to file a present amendment application seeking amendment of the plaint to introduce the prayer for recovery of possession. The said amendment application was resisted by filing counter, wherein the allegation regarding trespass into the suit property pending the suit was denied.

4. Even in the written statement it was clearly mentioned that suit property was already occupied and enjoyed by third parties. The respondent



claimed right over the property in R.S.No.1848 and in the written statement filed by the respondent, the possession of the plaintiff was stoutly denied.

5. It is seen from the written statement, the identity of the suit schedule property was seriously disputed by the defendant and they have raised a specific plea that property claimed by the plaintiff was occupied and enjoyed by the 3rd parties, the possession of the plaintiff was also seriously disputed. The written statement was filed as early as 06.09.2012 but the plaintiff has not taken any steps to amend the prayer in the suit. Now, claiming that the respondent has committed trespass in the year 2024, the present application has been filed on 19.09.2024, when trial is in the stage of DW.1 cross. Both the parties participated in the trial and the plaintiff was examined as PW.1, who clearly admitted in his evidence that the property of the defendant lies in R.S.No.1848. However, he has not mentioned S.No.1848 in the plaint schedule. PW.2, who was examined on plaintiff's side has also clearly mentioned that R.S.No.1848 belonged to the respondent board. In these circumstances, it is clear, there is a serious dispute with regard to the identity of the property and the possession of the plaintiff was disputed



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in the written statement. Without taking any steps to amend the plaint, the plaintiff participated in the trial and at stage of evidence of DW.1, he has come up with an application for introducing the prayer for recovery of possession. There is a serious dispute as to identity of suit property. The petitioner as PW.1 admitted that he claimed right over property is S.No.1858. However, said survey number has not been included in the suit property. Taking into consideration all these aspects, the trial Court rightly dismissed the amendment application as it is filed after examination of DW.1.

6. I do not find any error in the order passed by the trial Court and accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
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To
The Principal District Munsif,
Alandur.



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S.SOUNTHAR, J.

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