



C.R.P.(PD)(MD)No.1263 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P(PD)(MD)No.1263 of 2025

and

C.M.P(MD) No.6667 of 2025

Murugan

... Petitioner/Petitioner/
Plaintiff

Vs.

Balaiah

... Respondent/Respondent/
Defendant

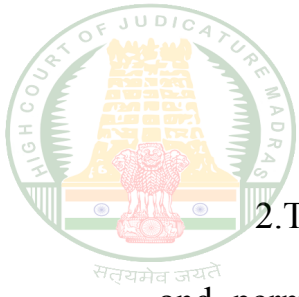
PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 18.04.2024 made in I.A.No.7 of 2024 in O.S.No.79 of 2012 on the file of the Additional District Munsif Court, Sankarankovil, by allowing this Civil Revision Petition.

For Petitioner : Ms.S.Mahalakshmi

For Respondent : Mr.G.Gomathi Sankar

ORDER

This Civil Revision Petition is filed challenging the order dated 18.04.2024 made in I.A.No.7 of 2024 in O.S.No.79 of 2012 on the file of the Additional District Munsif Court, Sankarankovil.



2.The petitioner is the plaintiff in O.S.No.79 of 2012 filed for declaration and permanent injunction. In that suit, the petitioner filed an interlocutory application in I.A.No.7 of 2024 under Order VI Rule 17, 18 and Section 151 of CPC to amend the plaint for mandatory injunction for removal of the encroachment made by the respondent during the pendency of the suit. The said petition was dismissed. Challenging the same, the petitioner has filed the present Civil Revision Petition.

3.The learned counsel for the petitioner submitted that the petitioner and the defendant have purchased the subject property from the same person. The petitioner claims that the petitioner has purchased 4 cents out of 12 cents from his vendor. Whereas, the respondent claims that he has purchased the entire 12 cents and encroached 1 ½ cents of the petitioner's property. Thereby, the petitioner filed the suit for declaration and permanent injunction. Subsequently, the petitioner came to know that the respondent has constructed a portion of his building in the petitioner's property during the pendency of the suit. Hence, the sought to amend the prayer for mandatory injunction. The trial Court without considering all these aspects has rejected the claim of the petitioner.

4.Per contra, the learned counsel for the respondent submitted that the petitioner has constructed the pucca building by obtaining necessary building



plan approval from the authorities concerned in the subject property even before the initiation of the suit proceedings. If at all the petitioner claims right over the property, he has to establish the same before the trial Court by adducing proper evidence. Instead, the prayer of mandatory injunction is not at all necessary. Hence, the order of the trial Court need not be interfered.

5.Heard the learned counsel appearing on either side and perused the materials placed on record.

6.The facts in the present case are not in dispute. Admittedly, the petitioner filed the suit for declaration and permanent injunction as against the respondent claiming 1 ½ cents in the subject property. In such suit, the petitioner has to establish his title before the trial Court by adducing proper evidence. Instead, seeking amendment of plaint prayer for mandatory injunction to remove the encroachment made in the subject property without establishing title, is not sustainable. An application cannot be filed by way of an amendment of this sort to fill up the lacuna.

7.Moreover, the amendment application is a belated one. It is to be noted that to amend the suit plaint, the prescribed time limit under the Limitation Act is only three years from the date of cause of action. In the present case, suit was



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filed in the year 2012. Whereas the amendment petition is filed nearly after ten years during the year 2024. The said issue was rightly appreciated by the trial Court and the application filed by the petitioner seeking amendment of the plaint was rightly dismissed. Hence, this Court is of the view that the order of the trial Court need not be interfered with.

8. Accordingly, this Civil Revision Petition stands dismissed. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

07.07.2025

Index : Yes/No
Internet : Yes / No
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To

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



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M.DHANDAPANI,J.

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