



C.R.P.(PD)(MD).No.2083 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2025

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(PD)(MD).No.2083 of 2022
and CMP(MD).No.9584 of 2022

1.R.Rajagopal

2.R.Jansirani

.... Petitioners/Respondents 1 & 2
/Defendants 1 & 2

-VS-

1.Paul Chinnasamy

...1st Respondent/Petitioner
/Plaintiff

2.Emili Richard

...2nd Respondent/3rd Respondent
/3rd Defendant

PRAYER: The Civil Revision Petition has been filed under Article 227 of Constitution of India, to set aside the order of I.A.No. 831 of 2018 in O.S.No.325 of 2010 dated 26.04.2022 on the file of the II Additional District Munsif, Tiruchirappalli and to allow the revision petition.

For Petitioners : Mr.S.Madhavan

For M/s.R.Harivarushini

For Respondent : Mr.A.Rahul for R1

: No appearance for R2



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ORDER

Defendants 1 and 2 in O.S.No.325 of 2010 on the file of the II Additional District Munsif Court, Tiruchirappalli are the revision petitioners challenging the allowing of application filed under Order 6 Rule 17 of C.P.C wherein the plaintiff has been permitted to amend the plaint to incorporate the prayer for declaration of title and recovery of possession.

2.Initially the plaintiff has filed the suit for the relief of mandatory injunction for removal of unlawful construction and for permanent injunction restraining the defendants from interfering with the possession and enjoyment of the plaintiff.

3.The defendants have filed a written statement claiming rival title to the plaintiff. This has prompted the plaintiff to file I.A.No.831 of 2018 to incorporate the prayer for declaration of title and recovery of possession. This application was resisted by the defendants 1 and 2. However, the trial Court has proceeded to allow the amendment application. Challenging the same, the defendants 1 and 2 have filed the present civil revision petition.



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4. According to the revision petitioners/defendants, the trial Court has made various observations with regard to the fact that the title of the defendants has not been disputed and therefore, the applications for amendment of plaint seeking declaration of title may not be barred by limitation. The trial Court has further found that the power deed executed in favour of the second defendant need not to be set aside. Aggrieved over the observations made by the trial Court, the defendants 1 and 2 have filed the present revision petition.

5. The facts captured above will clearly indicate that the defendants have disputed the title in the written statement and this would amount to denial of title. In such circumstances, this Court cannot find fault with the plaintiff for amending the plaint to incorporate the prayer for declaration of title and recovery of possession. In such circumstances, the trial Court has allowed the amendment of plaint for incorporating the prayer for declaration of title and recovery of possession. However, the defendants are always at liberty to raise the plea of limitation during trial.

6. The power deed executed by the third defendant in favour of the second defendant is concerned, it is a subject matter of trial. Therefore, the observations of the Court cannot influence the trial.



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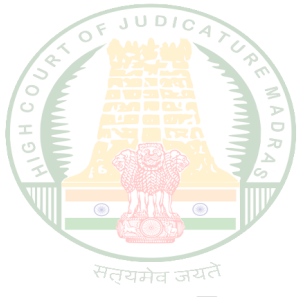
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7. In view of the above said facts, this Court does not find any error or illegality in the order passed by the trial Court in allowing the amendment application. However, the observations made by the trial Court as against the plaintiff and the defendants are hereby expunged. This Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

7. Considering the fact that the suit is of the year 2010, the trial Court is directed to dispose of the suit on or before 31.10.2025. The parties are directed to co-operate with the trial proceedings.

14.03.2025

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
msa



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To

- 1.The II Additional District Munsif
Tiruchirappalli
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J

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