



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 24.06.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.[PD](MD)No.2083 of 2021

and

C.M.P.(MD)No.11082 of 2021

Sahadevan

...Petitioner

Vs.

Kanthasami

...Respondent

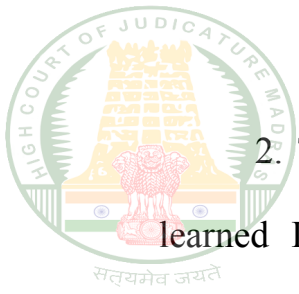
PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the order passed in I.A.No.1 of 2021 in O.S.No.202 of 2010 dated 18.11.2021 on the file of the District Munsif Court, Srivaikundam and thereby allow the Civil Revision Petition.

For Petitioner : Mr.S.Muthumalai Raja

For Respondent : Mr.P.Thiyagarajan

ORDER

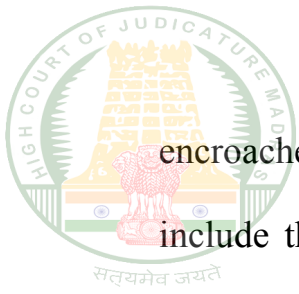
This petition has been filed seeking orders to set aside the order passed in I.A.No.1 of 2021 in O.S.No.202 of 2010 dated 18.11.2021 on the file of the District Munsif Court, Srivaikundam.



2. The respondent herein filed a suit in O.S.No.202 of 2010 before the learned District Munsif, Srivaikundam, seeking declaration and permanent injunction against the petitioner. Before the commencement of the trial, the respondent filed an interlocutory application in I.A.No.1 of 2021 under Order VI Rule 17 read with Section 151 of the Civil Procedure Code, seeking to amend the prayer to include recovery of possession and mandatory injunction. The said application was allowed by the trial Court on 18.11.2021. Challenging the said order, the petitioner has filed the present petition.

3. The learned counsel appearing for the petitioner would submit that admittedly, the suit was instituted in the year 2010, and after a lapse of more than 11 years, the amendment petition was filed without any supporting evidence. It was further contended that during the pendency of the suit, the plaintiff / respondent had sold the suit property to a third party, and as on date, he has no title or interest over the schedule property. Therefore, he cannot maintain the suit in the absence of any right or interest, much less continue the proceedings. Accordingly, he prayed for setting aside the order passed in I.A.No.1 of 2021.

4. Per contra, the learned counsel appearing for the respondent would submit that the original suit was filed in the year 2010 for declaration and injunction. Subsequently, on realizing that a portion of the suit property was



encroached upon by the petitioner, the respondent sought to amend the plaint to include the relief of recovery of possession and mandatory injunction. It was further contended that the said amendment is not barred by the law of limitation. Accordingly, he prays for dismissal of the present petition.

5. On perusal of the materials on record and the order of the trial Court, this Court finds that the trial Court had rightly taken into account that under Section 65 of the Limitation Act, the period of limitation for recovery of possession is 12 years, and the amendment petition was filed well within that period. The trial Court had discussed the issue in detail and arrived at a proper conclusion. Hence, this Court is of the opinion that the order passed by the trial Court in I.A.No.1 of 2021 does not warrant any interference.

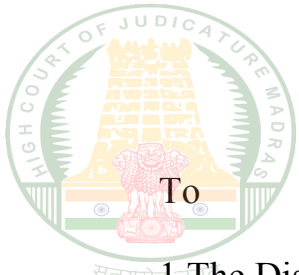
6. In view of the above, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

24.06.2025

Internet:Yes/No

Index:Yes/No

TSG



To

1. The District Munsif Court, Srivaigundam.

2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

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M.DHANDAPANI, J.

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