

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON
15.04.2026PRONOUNCED ON
05.06.2026

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THE HON'BLE MR.JUSTICE K.KUMARESH BABU

CRP No. 1043 of 2020
and CMP.No.5680 of 20201.M.Krishnamoorthy
2.Tmt.Barathi
3.Manoj Kumar

..Petitioners

Vs

Tmt.Umavathy
W/o.Thangavel,
Proprietor of M/s.UTN Pumps & Motors,
Ganapathy, Coimbatore

..Respondent

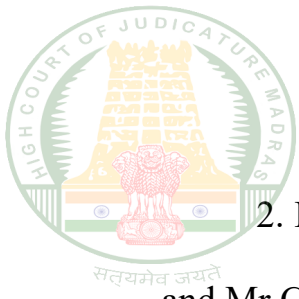
PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, against the Order dated 31.10.2019 made in I.A.No.1 of 2019 in O.S.No.1672 of 2015, on the file of learned I Additional District Munsif, Coimbatore.

For Petitioner(s): Mr.D.Ravichander

For Respondent(s): Mr.C.R.Prasanan

ORDER

The Civil Revision Petition filed against the order dated 31.10.2019 made in I.A.No.1 of 2019 in O.S.No.1672 of 2015 on the file of I Additional District Munsif, Coimbatore.

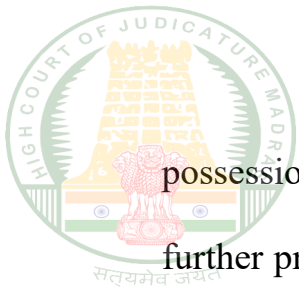


2. Heard Mr.D.Ravichander, learned counsel appearing for the petitioners and Mr.C.R.Prasanan, learned counsel appearing on behalf of the respondent.

3. The learned counsel appearing for the petitioner would submit that the respondent had instituted a Suit seeking for a relief of permanent injunction restraining the petitioners from interfering with the peaceful possession and enjoyment of the Suit property.

4. It is the case of the respondent that in the property belonging to her husband, she had been carrying on business under the name and style of “UTN Pumps and Motors” and alleging interference with the business and also attempt to trespass the suit property, the said Suit for bear injunction had been filed. The petitioners have also filed a written statement denying the allegations and claiming possession of the suit property.

5. He would further submit that an Interlocutory Application was taken out for appointment of an Advocate Commissioner which was ordered *ex-parte* and the said Advocate Commissioner had filed a false report as if on the date of inspection, the petitioners without assisting the Advocate Commissioner for executing the warrant had threatened the Advocate Commissioner and had also acted in such a manner to bring about a colour that the respondent was in



possession of the property and the petitioners had dispossessed the property. In further proceedings, a fresh Advocate Commissioner was appointed and on that basis he had filed a detailed report.

6. He would submit that while that being so, an further Interlocutory Application was taken out by the respondent seeking amendment of the plaint by introducing averments that the petitioners have encroached the Suit property subsequent to the filing of the Suit and also sought for a mandatory injunction. He would submit that the said application was beyond the period of limitation i.e., after four years of the report of the Advocate Commissioner and therefore, prayer that is sought to be amended, is beyond the period of three years and hopelessly hit by the law of limitation. Without considering the same, the Trial Court held that it is to be a pre- trial amendment liberally considered the application and ordered the same allowing the amendment to be carried out. He would submit that such amendment that has been granted, is contrary to the well settled principles and therefore, is liable to be interfered with. He would further submit that the amended Suit had not been valued properly and for recovery of possession, the value should have been made by applying under Section 30 and not Section 27C of the Tamil Nadu Court Fee and Suits Valuation Act and on that ground also, the amendment ought not to have been allowed. In that context, he had also relied upon a judgment of this Court in the case of ***Sudha vs. Marimuthu & Ors.***, reported in ***2024 SCC Online Madras 6169***. Hence, he



seeks indulgence of this Court.

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7. Countering his arguments, the learned counsel appearing for the respondent would submit that for recovery of possession, the limitation prescribes 12 years and not three years as contested by the petitioners. Therefore, the law of limitation cannot be put against the respondent in seeking the amendment. That apart, he would submit that the amendment had been made based only upon the report of the Advocate Commissioner in the year 2015 for which objections were filed and thereafter, a fresh Advocate Commissioner was also appointed by the Court, who had recorded a finding of fact that the petitioners are in possession of the property. Hence, the second Advocate Commissioner cannot dislodge the report of the earlier Advocate Commissioner, which had not been scrapped by the Court and still is on the records of the Court and the second report of the Advocate Commissioner substantiates that the petitioners are in possession of the property which necessitated the filing of the amendment. Even assuming the claim of the petitioners is that the only period of limitation is three years from the date of the report of the second Advocate Commissioner namely 13.07.2018, the application is well within the period of limitation.

8. He would further submit that these issues can also be framed as an additional issue in which the petitioners would have a right to file an additional



written statement and therefore, they cannot be said to be prejudiced. He would further submit that the conduct of the petitioners in trespassing into the property that too on the date when the Advocate Commissioner appointed by the Court had visited property causes serious concern and infact is in intervention in execution of the warrant, which act of the petitioners are also contemptuous. Therefore, he would plead this Court to dismiss the Revision Petition.

9. I have considered the submissions made by the learned counsels appearing on either side and perused the materials placed on record.

10. It is an undisputed fact that the respondent had instituted a Suit for bare injunction as against the petitioners in respect of the Suit Schedule Property. An application had been taken by the respondent for appointment of an Advocate Commissioner and the Advocate Commissioner had filed a report containing details of the violations and the conduct of the petitioners and other third parties in his report. The petitioners had filed an objection, but no application had been taken out to strike off the said report and with the said report on record, a fresh Advocate Commissioner had been appointed by the Court to inspect the Suit property and to file a report also taking into consideration only the objections submitted to the earlier Advocate Commissioner's report and the fresh Advocate Commissioner had filed a report. A reading of which discloses the petitioners are in possession of the suit



property. The said report did not deal with the objections of the petitioners and even if it had done so, the said report with regard to the same cannot be taken as it is only the Court which could have dealt with the objections to the Advocate Commissioner's report and pass an appropriate order either to accept the said report or scrap the same. In that process, the Advocate Commissioner who had filed the reports could be cross examined by the respective parties.

11. Even though, it is the claim of the petitioners that they are in possession of the suit property even in the written statement it is for them to substantiate that they have been in possession of the Suit property in their own right and the respondent was never in possession of the suit property. This Court is of the further view that the amendment as claimed from the cause of action read with the earlier report of the Advocate Commissioner dated 08.09.2015 is of the view that there is a cause of action for seeking to amend the plaint. A perusal of the report of the second Advocate Commissioner in the year 2018 in no manner dislodges the report of the earlier Advocate Commissioner dated 08.09.2015, these all could be dealt with during the trial in the manner known to law. In that context necessary issues could also be framed including the law of limitation claimed by the petitioners. In that regard, this Court is refraining itself the answering the issue of limitation that had been put forth by both the parties.



12. For the aforesaid reasons, the Civil Revision Petition stands dismissed by granting liberty to the petitioners to file additional written statement within a period of four (4) weeks from the date of receipt of a copy of this order or the amended plaint filed pursuant to the order made in I.A.No.1 of 2019 in O.S.No.1672 of 2015. However, there shall be no order as to costs. Consequently connected Miscellaneous Petition is also closed.

05.06.2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

I Additional District Munsif, Coimbatore.



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K.KUMARESH BABU, J.

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