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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 16.04.2019

DELIVERED ON : 30.04.2019

CORAM

**THE HONOURABLE MRS. JUSTICE R. THARANI**

C.R.P. (PD) (MD) No. 2179 of 2015

and

M.P. (MD) No. 1 of 2015

1. Mani

2. Sornam

.. Petitioners/Respondents/Defendants

Vs.

Alexander

Represented by his power agent Fathima Mary

.. Respondent/Petitioner/Plaintiff

**Prayer:** This Civil revision petition is filed under Article 227 of the Constitution of India, to set aside the order dated 15.06.2015 made in I.A.No.420 of 2015 in O.S.No.562 of 2007 on the file of the learned Principal District Munsif, Thiruchirappalli.

For Petitioners : Mr.T.Lajapathi Roy

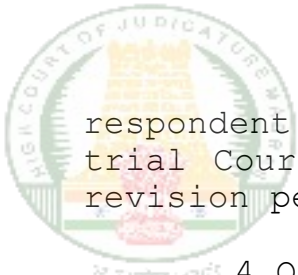
For Respondent : Mr.M.Ashok Kumar

**ORDER**

Heard Mr.T.Lajapathi Roy, learned counsel appearing for the petitioners and Mr.M.Ashok Kumar, learned counsel appearing for the respondent.

2.This Civil Revision Petition has been filed against the order passed in I.A.No.420 of 2015 in O.S.No.562 of 2007 dated 15.06.2015 on the file of the learned Principal District Munsif, Thiruchirappalli.

3.The petitioners herein are the defendants and the respondent herein is the plaintiff in the suit. The respondent herein has filed a suit in O.S.No.562 of 2007 for a prayer of recovery of possession. In the suit, the respondent filed a petition in I.A.No.420 of 2015 under Order 6 Rule 17 of C.P.C., to permit the



respondent to amend the plaint. The petition was allowed by the trial Court. Against which, the petitioners herein have filed this revision petition before this Court.

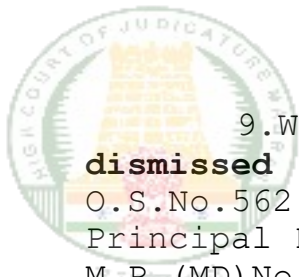
4. On the side of the petitioners, it is stated that the suit is filed in the year 2007 and only at the post trial stage, the respondent has come forward with this I.A. petition to amend the main prayer by including the prayer for declaration of title and to declare the documents filed by the defendants B1 to B6 as null and void. It is the duty of the respondent to prove that assignment is in his favour. The patta was issued to the first petitioner in his name which is marked as Ex.B2 and he has gifted the property in the name of his wife and the gift deed is Ex.B1. The tax receipts are marked as Ex.B3 and Ex.B4 and all the documents are filed on the side of the defendants. The respondent has filed a petition to amend the prayer column and the trial Court has allowed the petition without any reason for the decision. Only five lines order was passed by the trial Court. The amendment sought for will change the entire nature of the suit and prayed the revision petition is to be allowed.

5. On the side of the respondent, it is stated that the documents are filed only at the time of trial and the respondent is not aware of the documents prior to the trial. When the respondent came to know about the documents, it is necessary for the respondent to carry out the amendments. The amendment is not beyond the scope of the plaint. If the order is not a detailed order, it is the fault on the side of the Court not on the side of the respondent. If needed the petition can be remanded back to the trial Court for passing detailed order.

6. A perusal of the records reveals that the trial Court has failed to pass a speaking order and only a five lines order is passed. It is seen that the documents are filed during the trial of the suit. The respondent can question the documents only after the documents are filed by the defendants.

7. When the title is questioned, it is the duty of the plaintiff to prove his title. It is seen that the defendants are claiming the title to the suit property. An opportunity for the plaintiff to be given to make necessary amendments in the prayer column subject to the payment of necessary Court fee to avoid multiplicity of the case. Since the suit is pending from the year 2007, a direction to the trial Court is to be given to dispose of the matter within a time frame.

8. In the above circumstances, the trial Court is directed to dispose of the case within a period of four months from the date of receipt of copy of this order.



9. With the above direction, this Civil Revision Petition is **dismissed** by confirming the order passed in I.A.No.420 of 2015 in O.S.No.562 of 2007 dated 15.06.2015 on the file of the learned Principal District Munsif, Thiruchirappalli. No Costs. Consequently, M.P.(MD)No.1 of 2015 is closed.

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Sd/-

Assistant Registrar (C.O)

// True Copy //

Sub Assistant Registrar(CS )

Mrn

To

1.The Principal District Munsif, Thiruchirappalli.

+1. CC to Mr.M.Ashok Kumar, Advocate SR.No.64758.

C.R.P.(PD)(MD)No.2179 of 2015  
30.04.2019

CS: (03/06/2019) 3P 3C