IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2015

C O R A M

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(PD) NO.1144 OF 2015
AND M.P.NO.1 OF 2015

Poongavanam ... Petitioner

Vs.

1.Kumar @ Vijayakumar
2.Rajaeswari
3.R.Santhi
4.Dhanalakshmi
5.Shanmugam ... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India against the fair and final order dated 26.11.2014 made in I.A.No.1047 of 2014 in O.S.No.70 of 2013 on the file of the District Munsif Court, Palacode.

For Petitioner : Mr.K.S.Karthik Raja

O R D E R

This Civil Revision Petition arises out of the order dated 26.11.2014 passed in I.A.No.1047 of 2014 in O.S.No.70 of 2013 by the learned District Munsif, Palacode.

2.The petitioner is the first defendant in O.S.No.70 of 2013 pending on the file of the District Munsif Court, Palacode. The first respondent herein had instituted the suit against the petitioner and others for declaration of title to the suit property and for permanent injunction.

3.The plaintiff / first respondent herein filed an application in I.A.No.1047 of 2014 under Order VI Rule 17 read with Section 151 of the Civil Procedure Code for amendment of the description of the suit property. The plaintiff wanted to include new survey number to the suit property and also amend the extent mentioned therein. The application was opposed by the petitioner. Despite objections, the Trial Court allowed the application on 26.11.2014. Aggrieved by the same, the present Civil Revision Petition is filed.

4.Mr.K.S.Karthik Raja, learned counsel for the petitioner submitted that the present application filed by the plaintiff / first respondent to amend the plaint changes the nature and character of the suit and the plaintiff/ first respondent wanted to introduce a new case by way of amendment. It is further contended that after examination of plaintiff's side evidence, the application was filed to fill up lacuna in the cross examination of P.W.1.

5.It is settled law that the amendment of the description of the suit property would not change the nature and character of the suit. The plaintiff / first respondent has sought to amend the schedule to include new survey number as 424/8 along with old survey no.424 and the extent of property as 0.50.00 hectares instead of 2.55 acres. The only objection of the petitioner is that after the evidence of P.W.1 was over, the said application was filed and the petitioner does not have opportunity to cross examine P.W.1 with regard to the amendment.

6.Considering the grievance of the petitioner, I am of the view that the Trial Court shall allow the petitioner to cross examine P.W.1. The contention of the petitioner that the amendment will change the character and nature of the suit has no force.

7.In the result, this Civil Revision Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

24.03.2015

Index : Yes/No
Internet : Yes/No
TK

K.KALYANASUNDARAM, J.
TK

To

The District Munsif Court
Palacode.

C.R.P.(PD).NO.1144 OF 2015

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