

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **29.11.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.2470 of 2014 and
M.P.No.1 of 2014

1. R.Srikantan
2. G.Dayanand
G.Deepak (died)
3. Sasikala
4. Manasha
- 5.Minor Darshan
rep. by mother and Natural Guardian
Sasikala

...Petitioners

versus

P.Vasudevan

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decree dated 11.03.2014 made in I.A.No.721 of 2009 in O.S.No.46 of 2006 on the file of the District Munsif, Udhagamandalam.

For Petitioners : Mr.D.Ravichander

For Respondent : Mr.R.Pradeep

ORDER

The respondent filed an application before the trial court in I.A.No.721 of 2009 for amendment of the plaint and more particularly, the plaint schedule, to correct the survey numbers as T.S.No.4 instead

of 5 and 9. The application was allowed by the learned trial Judge notwithstanding the contention taken by the petitioners. The said order is under challenge in the Civil Revision Petition.

2. The learned Counsel for the petitioners by placing reliance on the order in I.A.No.178/2006 contended that the trial court earlier made it very clear that the injunction is confined to property in Town Survey Numbers 13/5 and 13/9 and it would not relate to Town Survey No.13/4. The respondent also accepted the said factual position. According to the learned Counsel, it was only to make a claim in respect of the property in Survey No.13/4, the respondent has filed the application in I.A.No.721/2009.

3. The learned Counsel for the respondent, on the other hand, by placing reliance on paragraph 10 of the Written Statement filed by the petitioners herein contended that even the petitioners admitted that the Old Survey No.4437 was sub-divided as Town Survey No.B-13/4 and as such, the application for amendment was correctly made by the respondent.

4. The respondent filed a suit claiming that he is in possession and enjoyment of the property in Re-survey No.4437, Ootacamund Town Municipality covered by present Survey Numbers 5 and 9 of Block 13.

5. The petitioners in the written statement contended that the re-survey No.4437 has already been sub-divided as Town Survey No.B.13/4. Therefore, it is clear that even as per the case of the petitioners, the Town Survey No.13/4 is the sub-division number in respect of the property in S.No.4437.

6. The petitioners filed this Civil Revision Petition primarily on the ground that the respondent would include the property in Town Survey No.13/4 as an item in respect of which they got the injunction.

7. The learned Counsel for the respondent, on instructions, would submit that the respondent is not claiming injunction in respect of the property in Town Survey No.13/4 in view of the pendency of the suit for trial.

8. The trial court allowed the application for amendment taking into account the sub-division made in the property in S.No.4437. Even after amendment, it is for the respondent to prove that he is entitled to a decree for injunction in respect of the property in Town Survey No.B.13/4. I am, therefore, of the view that no interference is called for in the order under challenge. However, I make it clear that the injunction granted by the trial court in I.A.No.178 of 2006 would confine only to the property in Town Survey No.13/5 and 9 and it would not extend to the property in T.S.No.13/4. It is for the trial court to adjudicate as to whether the respondent is entitled to a decree in respect of the property in T.S.No.13/4.

9. The Civil Revision Petition is disposed of with the above clarification. It is needless to state that reasonable opportunity should be given to the petitioner to file Additional Written Statement. No costs. Consequently, connected Miscellaneous Petition is closed.

29.11.2016

Index:Yes/No
tsi

To

The District Munsif, Udhagamandalam.

K.K.SASIDHARAN, J.

(tsi)

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