

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09.11.2016**

CORAM:

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

C.R.P.(P.D.) Nos.1157, 1158 of 2016

Arul : Petitioner
versus

1.Rukmani
2.Perumal
3.Jeganmohan
4.Baskaran : Respondents

PRAYER: Revision filed against the order dated 1.3.2016, in I.A.Nos.47, 48 of 2016 in O.S.No.184 of 2010 on the file of the I Additional District Munsif, Bhavani.

For petitioner :: Mr.R.Nalliyappan

For respondents :: Mr.A.Sundaravadhanam

COMMON ORDER

The petitioner filed a suit for declaration with regard to his right of enjoyment of the suit cart track ABCD and for consequential injunction. The suit was resisted by the respondents by filing written statement. The Trial Court framed issues and thereafter, the parties adduced evidence. After argument, the petitioner filed two applications in I.A.Nos.47 and 48 of 2016, to amend the plaint and to reopen the evidence. The learned Trial Judge dismissed both the applications. Feeling aggrieved, the petitioner is before this Court.

2. The learned counsel for the petitioner contended that the petitioner very correctly indicated the cart track portion, ABCD in the plaint originally filed. However, there was a wrong description in the plaint and it was only to correct the mistake, the application was filed for amendment. According to the learned counsel, no prejudice would be caused to the respondents by permitting the petitioner to amend the plaint.

3. The learned counsel for the respondents by placing reliance on an earlier judgment in O.S.No.17 of 1984, contended that predecessor-in-interest of the petitioner was a party to the said suit. There was no such contention taken by the purchaser in the said suit which would go in tune with the contention now taken by the petitioner and therefore, the Trial Court was perfectly correct in dismissing the applications.

4. The petitioner filed a suit in O.S.No.184 of 2010 with a plea that the suit cart track portion ABCD passes through the defendants' land in Old S.F.No.645C. There is a statement to the effect that cart track is shown in the rough plan attached to the plaint. The parties adduced evidence taking into account plaint and written statement. It was only after conclusion of trial and more particularly after hearing both sides by the learned Judge, interlocutory applications were filed for reopening evidence as well as to amend the plaint. There is no question of amending the plaint after

conclusion of evidence. The respondents cross examined P.W.1 on the basis of the plaint averments. In case certain unfavourable questions were answered by P.W.1, the same cannot be corrected later by filing application for amendment. In any case, the learned Trial Judge was perfectly correct in dismissing the applications filed by the petitioner. I do not find any error or illegality in those orders, warranting interference by exercising revisional jurisdiction under Article 226 of the Constitution of India. However, I make it clear that dismissal of the applications filed by the petitioner would not stand in the way of the petitioner explaining his case on the basis of the averments found in the plaint filed in O.S.No.184 of 2010.

5. The civil revision petitions are dismissed with the above observation. No costs. Consequently, C.M.P.No.6346 of 2016 is dismissed.

09.11.2016

Index:Yes/no
tar

To
The I Additional District Munsif, Bhavani.

K.K.SASIDHARAN, J.

(tar)

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