

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2016

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THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.R.P.(PD) No. 830 of 2013

&

M.P. No. 1 of 2013

Ponnusamy

..Petitioner

Vs.

1. Velu
2. Gnanamani @ Dadikaran
3. The Taluk Surveyor,
Revenue Tahsildar's Office,
Kallakurichi,
Vizhipuram District.
4. The Revenue Tahsildar,
Kallakurichi Vattam,
Vizhupuram District.

5. Mekalai

..Respondents

Prayer: Civil Revision Petition to set aside the fair and final order of the I

Additional District Munsif Court, Kallakurichi, dated 06.09.2012, made in I.A.

No. 357/2012 in O.S. No. 133/2001.

For Petitioner :: Mr.S. Sounthar

For Respondents :: Mr.T.S. Baskaran for R1 & R2

O R D E R

This civil revision petition is filed by the petitioner/plaintiff against the dismissal of the amendment application in I.A. No. 357 of 2012 by which the petitioner sought to amend the plaint by including the sub-division of one of the survey numbers, namely, S.No. 323/1A as S.No. 323/1A and 323/1B in the suit schedule and also to include that in the said survey numbers, the well, the electric motor and Service Connection No. 299 are located.

2. The Trial Court, taking into account, the earlier history of the case and also the pleadings made by the 1st respondent/1st defendant in the written statement, dismissed the petition observing that the petition has been filed after 10 years and there is no explanation for non-filing of amendment petition previously.

3. Heard Mr.S.Sounthar, learned counsel for the petitioner and Mr.T.S. Baskaran, learned counsel for the respondents.

4. A perusal of the schedule to the plaint would show that the suit is for two survey numbers, namely, 323/2 and 323/1A, out of which S.No. 323/2 was shown to be sub-divided as 323/2A and 323/2B. Since,

subsequently, 323/1A also got sub-divided as 323/1A and 323/1B, the present petition in I.A. No. 357 of 2012 was filed. The petitioner contends that without notice to him, the sub division had taken place. Therefore, he had no knowledge of the same. Further, the location of the well was wrongly shown as if it is located in 323/2 whereas the correct position of the well and the electric motor with Service Connection No. 299 is in S.No. 323/1A1.

5. However, Mr.T.S. Baskaran would oppose stating that deliberately, the petitioner, after a long delay, had taken out the petition, only to delay the proceedings.

6. No doubt, it is true that the matter was decreed in favour of the petitioner and the matter was taken up to Appellate Court in A.S. No. 149/2003. The Appellate Court remanded the matter for re-trial. Only during re-trial, the present application has been taken up. Though the application has been taken out belatedly, the amendment is only for the purpose of incorporating the sub-dvision and also to correctly locate the well. The amendment only reflects the state of affairs. It only exhibits negligence on the part of the party as well as the counsel, who appeared for the petitioner, before the Trial Court. This Court is convinced that the amendments are necessary to decide the issue and also to state the correct facts. In the

N. KIRUBAKARAN,J.

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interest of both the petitioner and the contesting respondents, the amendment is necessary. Accordingly, the order of the Lower Court is set aside and the Civil Revision Petition is allowed. The contesting respondents are entitled to file additional written statement, if required. The Trial Court is directed to dispose of the matter as expeditiously as possible. The amount of Rs.5000/- has been deposited by the petitioner before the Trial Court as a pre-condition for stay and the respondent is permitted to withdraw the said amount. No costs. Connected M.P. is closed.

28.04.2016

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To

The I Addl. Dist. Munsif,
Kallakurichi.

C.R.P (PD) No. 830 of 2013

