



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2016

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CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CRP(PD) (MD).No.339 of 2016 and
CMP(MD).No.1458 of 2016

1.P. Krishnamoorthy
2.R. Rajendran
3.R.Devadoss
4.T. Kamala
5.A. Ramamirtham

: Revision Petitioners

Vs.

A. Santhi

: Respondent

Civil Revision Petition is filed under Article 227 of the constitution of India against the fair and decreetal order passed in I.A.No.759 of 2014 in O.S.No.225 of 2010 on the file of the Sub Court, Pudukottai, dated 08.12.2015.

For Petitioner : Mr. K. Baalasundharam

O R D E R

This Civil Revision Petition is filed against the fair and decreetal order passed in I.A.No.759 of 2014 in O.S.No.225 of 2010 on the file of the Sub Court, Pudukottai, dated 08.12.2015.

2. The revision petitioners herein are defendants in O.S.No.225 of 2010. The respondent herein, who is the plaintiff had filed a suit for specific performance to enforce the agreement, dated 01.05.2008. The petitioners filed written statement and the trial was commenced. PW.1 was cross examined in chief and also cross examined. Thereafter, the respondent / plaintiff filed I.A.No.759 of 2014 for amendment, on the ground that boundaries has not been correctly mentioned. As per the boundary, the land will be 10000 Sq. feet, whereas the respondent agreed to purchase only 3000 Sq. Ft. The amendment will not change the nature of the suit and there is no new cause of action has been introduced. The petitioners resisted the same on the ground that the amendment will change the nature of the suit and introduce new cause of action. The respondent was not diligent in bringing correct particulars. After evidence of PW.1, the present petition has been filed only to filling lacuna.



3. The learned Trial Judge has considered all the materials available on record and allowed the amendment petition. Against that order, the present revision has been filed.

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4. The learned counsel appearing for the petitioners contended that the respondent was not diligent enough in filing the particulars in the suit. When she is not diligent enough at initial stage, she is not entitled to amendment sought for, after commencement of trial.

5. I have heard the learned counsel appearing for the petitioner and perused the materials available on record.

6. From the materials available on record it is seen that the respondent has sought for amendment of boundary, so as to claim a relief of specific performance of agreement mentioned as 3000 Sq. Ft. only. By this amendment, the nature of the suit will not be changed and there is no new cause of action introduced. Petitioners will not be prejudiced. The learned Judge considering the facts and circumstances passed order in proper perspective by giving valid reason. Hence, there is no reason warranting interference by this court.

7. In view of the above, the Civil revision petition is dismissed confirming the impugned order of the learned Subordinate Judge, Pudukottai, passed in I.A.No.759 of 2014 in O.S.No.225 of 2010, dated 08.12.2015. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

The Sub Court, Pudukottai

+1cc to Mr.K.Baalasundharam, Advocate Sr.No.7968

trp

AA/NGM-SS/03.03.2016/2p-3c

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