

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2017

CORAM:

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

CRP(PD)No.99 of 2015

&

M.P.No.1 of 2015

C.Subramani

.. Petitioner

..Vs..

1.Rani

2.Radhika

.. Respondents

Prayer:-

Civil Revision Petition filed under Article 227 of Constitution of India against fair and decreetal order dated 31.10.2014 in I.A.No.1150/2014 in O.S.No.160/2010 on the file of Additional District Munsiff, Tirupattur, Vellore District.

For Petitioner : Mr.G.Rajan

For Respondents : Mr.V.Raghavachari for R1
Mr.K.S.Gnanasambandam for R2

ORDER

This Civil Revision Petition is filed against fair and decreetal order dated 31.10.2014 in I.A.No.1150/2014 in O.S.No.160/2010 on the file of Additional District Munsiff, Tirupattur, Vellore District.

2. The petitioner is plaintiff and the respondents are defendants. The petitioner filed the suit for declaration and injunction. Both the respondents 1 and 2 filed the written statement on 01.11.2010 & 06.12.2010 respectively and are contesting the suit.

3. According to the respondents, the description of the property and particulars given in the schedule to the plaint are not correct. Based on the pleadings, issues were framed and trial commenced. PW1 was examined in chief, when it was posted for cross examination, the petitioner filed I.A.No.1150 of 2014 for amendment of the plaint. In the petition, the petitioner claimed deletion of the property described in the plaint except Item No.5. As far as the Item No.5 is concerned, he sought for amendment of the Survey Number and extent of the property. The respondents opposed the said application on the ground that by amendment, the petitioner is seeking to delete all the properties and include a new property and by amendment, a new case

is sought to be introduced.

4. The learned Judge, considering the averments, affidavit, counter affidavit and on perusal of the records, dismissed the application holding that in the written statement filed by the respondent in the year 2010, the respondents have stated that the description of the property is not correct and the petitioner has not taken any steps earlier and has come out with the application, after commencement of the trial and by amendment, a new case is being introduced.

5. Against the order of dismissal dated 31.10.2014 on I.A.No.1150 of 2014 in O.S.No.160 of 2010, the present Civil Revision Petition is filed.

6. From the materials on record, it is seen that the respondents have disputed the description of the property in the written statement filed in the year 2010 and stated that particulars mentioned in the schedule of the plaint is not correct. The petitioner has come out with the application for amendment after commencement of trial and he has not stated the reason for filing application earlier. The petitioner has not even stated that inspite of due diligence, he could not file the application for amendment before commencement of trial. By

amendment to Item No.5, the petitioner is seeking to amend the survey number, extent and value of the property. By this amendment, as already held by the learned Judge, the petitioner is seeking to introduce a new case and a new property. In these circumstances, the learned Judge has dismissed the application by exercising his powers by exercising powers conferred on him by giving cogent and valid reason. I do not find any illegality or irregularity in the order passed by the Trial Judge, warranting interference by this Court.

7. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

15.06.2017

dh/rgr

Index :Yes / No

Internet:Yes / No

Speaking Order/Non Speaking Order

To

The Additional District Munsiff,

Tirupattur,

Vellore District.

V.M.VELUMANI,J

dh/rgr

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