

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No. 329 of 2016
and
C.M.P. No.1302 of 2016

C. Ranganathan

.. Petitioner

Vs

1. N. Duraisamy

2. Rajendran

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 01.07.2015 made in I.A. No. 301 of 2009 in O.S. No. 157 of 2008 on the file of Additional Subordinate Judge (FAC), Tiruvannamalai.

For Petitioner : Mr. Mukund R. Pandiyan

For Respondents : Mr. R. Natarajan
for Mr. M. Arunkumar

ORDER

This revision arises against the order dated 01.07.2015 made in I.A. No. 301 of 2009 in O.S. No. 157 of 2008 on the file of Additional Subordinate Judge (FAC), Tiruvannamalai.

2. The revision petitioner has filed the suit in O.S. No. 157 of 2008 for declaration and permanent injunction. The present amendment application has been filed before the Additional Subordinate Court, Tiruvannamalai, under Order VI Rule 17 of Code of Civil Procedure. In the aforesaid Amendment Application, the petitioner seeks to amend the suit schedule in the petition, stating that there are some clerical and typographical error in the description of the property mentioned in the suit. According to the petitioner, no prejudice would be caused to the respondent if the said application is allowed. But, the court below, without considering the grounds raised in the Amendment application, has erroneously dismissed the said application.

3. The learned counsel for the petitioner would submit that in so far as the first amendment is concerned, the petitioner is not pressing for amending the entire boundaries of the suit property. The only amendment sought for in the present revision petition is to delete the words, “ south of plot No.22 purchased by Rajendra Prasad” and add “south of” on the southern side boundary of the suit schedule property. Even in the present application, the prayer is not clear. At this stage,

the petitioner seeks permission of this Court to withdraw the present revision petition, granting liberty to file a fresh application before the court below, only for amendment of the prayer in the plaint.

4. The learned counsel for the respondents would submit that appropriate application has been filed for amending the description of the property. With regard to withdrawal of the present petition, the same would not prejudice the right of the respondents, to agitate before the trial court.

5. In the light of the above submissions made by the learned counsel for both the parties, nothing survives in the present petition and hence the Civil Revision Petition is dismissed, with liberty to the petitioner to file a fresh application before the trial court and the same shall consider in accordance with law. Consequently, the connected Miscellaneous Petition is closed. No order as to costs.

27.11.2017

Index : Yes/ No

Speaking order/ Non speaking order

D. KRISHNAKUMAR J.,

avr

To
The Additional Subordinate Judge (FAC),
Tiruvannamalai



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