

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2017

CORAM:

**THE HONOURABLE MS.JUSTICE V.M.VELUMANI**

C.R.P.(NPD)No.4102 of 2010  
& M.P.No.1 of 2010

A.K.Dhanapal .. Petitioner

Vs.

K.Paneerselvam .. Respondent

**PRAYER:** Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 07.04.2010 made in I.A.No.35 of 2008 in A.S.No.21 of 2007 on the file of the Sub Court, Ranipet.

For Petitioner : Mr.T.P.Prabakaran

For Respondent : Mr.K.Thangavelu

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 07.04.2010 made in I.A.No.35 of 2008 in A.S.No.21 of 2007 on the file of the Sub Court, Ranipet.

2. The petitioner is the defendant and respondent is the plaintiff in O.S.No.116 of 2004 on the file of the District Munsif Cum Judicial

Magistrate, Arcot and in A.S.No.21 of 2007 on the file of the Sub Court, Ranipet. The respondent filed the said suit for permanent injunction, restraining the petitioner and his men from interfering with the peaceful possession and enjoyment of the respondent in the suit schedule property. By the judgment and decree dated 27.10.2006, the said suit was dismissed. The respondent filed A.S.No.21 of 2007 on the file of the Sub Court, Ranipet. In the appeal, the respondent filed I.A.No.35 of 2008 for amendment of the description of the property. According to the respondent, he has given in the schedule of the property, the name of the village and extent of boundaries, but failed to furnish the details of ward number, block number and survey number. In the circumstances, he filed an application to include these said particulars.

3. The petitioner filed counter affidavit and opposed the said application. According to the petitioner, by permitting such amendment, the entire cause of action will be changed and respondent is introducing a new cause of action and new case and prayed for dismissal of the I.A.

4. The learned Judge, by the order dated 07.04.2010, considering the materials on record and nature of the relief sought for

by the respondent, allowed the application on the ground that by amendment there will not be any change in the cause of action and no new case is introduced.

5. Against the said order dated 07.04.2010 made in I.A.No.35 of 2008 in A.S.No.21 of 2007, the present civil revision petition is filed by the petitioner.

6. Heard the learned counsel appearing for the petitioner and respondent and perused the materials available on record.

7. The respondent has filed the suit for permanent injunction. In the description of the property, the respondent has not given ward number, block number and survey number, but has given only name of the village, extent and boundaries of the suit property. The suit was dismissed on the ground that the respondent has not properly described the suit property. The learned Appellate Judge took note of the fact that the Commissioner in his report mentioned ward number, block number and survey number. The respondent is seeking to add these particulars in the description of the property. In the nature of the relief sought for by the respondent, proper description of the property is necessary to decide the issue in the suit. By adding

V.M.VELUMANI, J.

gsa

these particulars, the respondent is not introducing any new cause of action and new case. The respondent is not altering the name of the village, extent and boundaries. The learned Judge considered all the above facts and has rightly dismissed the application. There is no irregularity or illegality warranting interference with the order of the learned Judge dated 07.04.2010.

8. In the result, the civil revision petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

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Index: yes/No  
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To

The Subordinate Judge,  
Ranipet.

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