



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.02.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P (MD) No.233 of 2017 (PD)

in

C.M.P (MD) No.1052 of 2017

1. Azaruthin
2. Ahamed Fazil
(Represented through their
Power of Attorney
Mr.V.Kumaraguru,
S/o.R.Veerakumar, Dawood Mahal,
New Railway Feeder Road,
Kumbakonam)

...Petitioners/ Respondents 2 & 3 /
Defendants 2 & 3

Vs

1.Packianathan
2.Elangovan
3.Muthuselvam
4.Boopathi

...Respondents 1 to 4/ Petitioners /
Plaintiffs

5.Kumbakonam Meera Mahal Thirumana Mandapam
Through its Proprietor,
Samsudeen,
S/o. Nagoor Meera,
C2, 2nd Floor, Royal Apartments,
Gandhi Nagar,
Kumbakonam Taluk,
Thanjavur District.

... 5th Respondent / 1st Respondent /
1st Defendant

PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, to call for the records relating to the Fair and Decreetal order passed in I.A.No.71 of 2016 in O.S.No.566 of 2009, dated 29.08.2016 on the file of learned I Additional District Munsif Court, Kumbakonam and set aside the same by allowing this Civil Revision Petition.

For Petitioners : Mr. D.Srinivasaraghavan
For Caveator/
Respondents 1 to 4: Mr.G.Gomathi Sankar

ORDER

The petitioners have filed this Civil Revision Petition to set aside the Fair and Decreetal order passed in I.A.No.71 of 2016 in O.S.No.566 of 2009, dated 29.08.2016 by the learned I Additional District Munsif Court, Kumbakonam.



2.The petitioners are the defendants 2 & 3. The respondents 1 to 4 are the plaintiffs. The Fifth respondent is the first defendant in the suit. The respondents 1 to 4 filed suit in O.S.No.566 of 2009 before the learned I Additional District Munsif, Kumbakonam for permanent injunction against the fifth respondent. Pending suit, the fifth respondent sold his property along with property of the respondents 1 to 4/plaintiffs to petitioners/defendants 2 & 3. The respondents 1 to 4/plaintiffs filed application for impleading the petitioners as defendants 2 & 3. The said application was ordered and petitioners were impleaded as defendants in the suit. The petitioners after purchase they changed the name of the building as Dawood Mahal from Meera Mahal. The respondents 1 to 4/plaintiffs filed I.A.No.71 of 2016 to amend the long and short cause title of fifth respondent/as Dawood Mahal instead of Meera Mahal and also in the sketch in the plaint.

3.The petitioners filed the counter and opposed the said application on the ground that the said amendment would give an impression that the fifth respondent/first defendant samsudeen is the owner of the Dawood Mahal.

4.The learned Judge considering the averments made in the affidavit and counter affidavit and materials on record allowed the application.

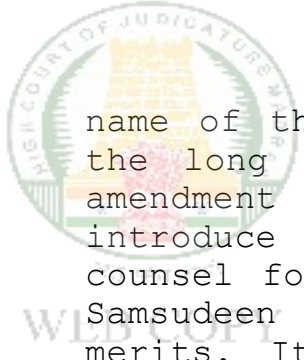
5.Against the said order, the petitioners have filed the present Civil Revision Petition.

6.The learned counsel appearing for the petitioners reiterated the averments made in the counter affidavit filed in I.A.No.71 of 2016, the grounds raised in the present Civil Revision Petition and further submitted that the amendment would amount to Samsudeen is the owner of the Dawood Mahal whereas the petitioners are the owner of Dawood Mahal and after purchase they have changed the name.

7.The learned counsel appearing for the Caveator reiterated the averments made in the affidavit and submitted that the petitioners are the subsequent purchasers and they have changed the name of the marriage hall as Dawood Mahal and therefore, it is necessary for the respondents 1 to 4 to amend the long cause title and short cause title to avoid multiplicity of proceedings.

8.I have heard the learned counsel appearing for the petitioners and the learned counsel appearing for the caveator.

9.From the records, it is seen that it is an admitted fact that the petitioners after purchase changed the name of the building as Dawood Mahal from Meera Mahal. On application filed by the respondents 1 to 4, amendment was ordered to substitute the



name of the building as Dawood Mahal instead of Meera Mahal, in the long and short cause tile and sketch in the plaint. This amendment would not change the nature of the suit or does not introduce a new cause of action. The contention of the learned counsel for the petitioners that such amendment would means that Samsudeen is the owner of the building Dawood Mahal is devoid of merits. It is a pre-trial amendment. It is well settled that before trial any amendment can be allowed. The learned Judge has correctly exercised his jurisdiction in proper perspective and there is no illegality or irregularity warranting interference by this court.

10. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To
The I Additional District Munsif,
Kumbakonam.

+1cc to Mr.G.Gomathi Shankar, Advocate, Sr No.6222
+1cc to Mr.D.Srinivasaragavan , Advocate, Sr No.6524

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MS/CM.MSA/6.3.2017/3P.4C