

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.04.2018

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P.(PD)No.1328 of 2018
and CMP.No.6927 of 2018

Rajangam

.. Petitioner

Vs.

V.S.Ramasamy

.. Respondent

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India praying to set aside the order and Decretal order dated 13.03.2018 made in I.A.No.271 of 2018 in O.S.No.647 of 2015 on the file of the Principal District Munsif Court, Erode.

For Petitioner : Mr.N.Manokaran

ORDER

This Civil Revision Petition has been filed to set aside the order passed by the learned Principal District Munsif Court, Erode in I.A.No.271 of 2018 in O.S.No.647 of 2015 dated 13.03.2018.

2. The defendant in O.S.No.647 of 2015 on the file of the Principal District Munsif Court, Erode, is the revision petitioner herein.

3. According to the petitioner, the respondent herein has filed a suit in O.S.No.647 of 2015 seeking permanent injunction. In the aforesaid suit, the petitioner has filed his written statement as early as on 17.06.2016. Thereafter, issues were framed and when the case was posted for trial, the petitioner had filed an application to amend the written statement in I.A.No.1321 of 2016 praying to amend the S.F.No.of the land and the same was allowed by the trial Court on 21.12.2016. Thereafter, the respondent's side evidence was closed and hence, the case was posted for petitioner's side evidence. During that time, the petitioner noticed that the alleged cart track was stated wrongly in the written statement due to technical error. Hence, the petitioner has filed an application in I.A.No.271 of 2017 to amend the written statement and the same was dismissed on the ground that the proposed amendment is inconsistency with the earlier pleadings as regards the location and direction of the suit cart track. Aggrieved by the said order, the petitioner has filed the present civil revision petition before this Court.

4. Heard and perused the records.

5. It is to be noted that suit in O.S.No.647 of 2015 filed on 25.11.2015 and the petitioner herein filed his written statement in the above suit as early

as on 31.05.2016 itself. Thereafter, he filed an application to amend the written statement and the same was allowed on 21.12.2016. After that, trial was commenced and respondent side evidence was completed. The petitioner side evidence commenced. DW1 was examined in chief. When the suit is posted for cross of DW1 at this stage the petitioner filed an application in I.A.No.271 of 2018 to amend the written statement by stating that the location and direction of the alleged cart track was stated wrongly in the written statement and the said mistake is purely a typographical error. Admittedly, this is second application for amending the written statement. The first application was to amend the R.S.Number and the second application is to amend the direction of the cart track. As contended by the petitioner, if it is only a typographical error, the same can be established through oral and documentary evidence. In the 2002 amendment in the C.P.C., a proviso has been introduced in Order VI Rule 17. As per the said proviso, the post trial amendment is not matter of right. The trial Court has given reason for dismissal of the amendment application. This Court finds no illegality or perversity in the order passed by the trial Court and there is no reason to interfere with the order passed by the trial Court.

P.VELMURUGAN,J.

kkd

6. Considering the facts and circumstances of this case, there is no merits in the revision petition filed by the petitioner. Hence, this civil revision petition is dismissed and the impugned order passed by the District Munsif Court, Erode in I.A.No.271 of 2018 in O.S.No.647 of 2015 dated 13.03.2018 is hereby confirmed. Consequently, the connected Miscellaneous petition is closed. No costs.

19.04.2018

Index:Yes/No
Internet : yes/No
Speaking order / Non speaking order
kkd

To

The Principal District Munsif Court,
Erode.

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