

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP(PD).No.461 of 2018
and CMP.No.2461 of 2018

J.Velmurugan

.. Petitioner

Vs

1.Vijayalakshmi alias Renuka
2.The Sub-Registrar,
Vanur Sub-Registration Office,
Villupuram District

.. Respondents

PRAYER

Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the fair and decreetal order passed in IA.No.383 of 2017 in OS.No.102 of 2011 dated 12.12.2017 by the learned District Munsif cum Judicial Magistrate, Vanur.

For Petitioner : Mr.T.Ramachandran

ORDER

According to the revision petitioner, the revision petitioner has filed an application in IA.No.383 of 2017 in OS.No.102 of 2011 for amendment of plaint under Section 6 Rule 17 of the Civil Procedure Code. According to the revision petitioner, the revision petitioner has

filed a suit in OS.No.102 of 2011 on the file of the District Munsif cum Judicial Magistrate, Vanur for permanent injunction. According to the revision petitioner, in paragraph 6 in page 2 of the plaint, the year has mentioned in the plaint has to be changed as 16.06.1999, the amount mentioned as Rs.35,000/- to be corrected as Rs.23,000/- and also the schedule of the property requires to be corrected. The revision petitioner came to know the said fact only at the time of cross examination of first defendant / first respondent. Hence, the instant application was filed within the time. Therefore, the order of the court below is liable to be set aside.

2. Heard the learned counsel for the revision petitioner and perused the materials available on record.

3. On perusal of the paragraph 6 of the plaint, the revision petitioner has admitted that the said land was purchased in the year 2004 by the revision petitioner and the first respondent. Therefore, the reasons stated in the affidavit, cannot be accepted. Further, the court below has dismissed the instant application by holding that it has been filed belatedly, that too at the time of evidence of the defendant side was examined. Further, in the case of RAJESH KUMAR

AGGARWAL AND OTHERS Vs. K.K. MODI AND OTHERS reported in **2006 (4) SCC 385**, wherein, the Hon'ble Supreme Court has held that *unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial*".

4. It is an admitted fact that the revision petitioner himself has stated in the plaint that the said land was purchased in the year 2004, the revision petitioner has not satisfied conditions under Order 6 Rule 17 of the Civil Procedure Code. Therefore, the order of the court below deserves to be confirmed.

5. The Civil Revision Petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

07.02.2018

Speaking/Non-Speaking order
Index :Yes/No
Internet:Yes/No
lok

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D. KRISHNAKUMAR J.,

lok

To

The learned District Munsif cum
Judicial Magistrate,
Vanur



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