

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2018

CORAM:

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

CRP (PD) No.86 of 2016

&

C.M.P.No.447 of 2016

Venu Padayatchi

... Petitioner

-Vs-

1.Sasikala

2.Shanmugam

3.Anaiychi

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the Fair and Decreetal Order dated 04.07.2015 made in I.A.No.627 of 2015 in O.S.No.92 of 2011 on the file of the II Additional District Munsif, Ulundurpet.

For Petitioner : Mr.Arun Datan

For Respondents : No appearance for RR1 to 3

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ORDER

This Civil Revision Petition is filed under Article 227 of the Constitution of India against the Fair and Decreetal Order dated

04.07.2015 made in I.A.No.627 of 2015 in O.S.No.92 of 2011 on the file of the II Additional District Munsif, Ulundurpet.

2.The petitioner/plaintiff has filed a suit in O.S.No.92 of 2011 on the file of the II Additional District Munsif, Ulundurpet for declaration and permanent injunction as against the respondents herein. The aforesaid suit is posted in the special list for trial. At this stage an application has been filed in I.A.No.627 of 2015 to amend the plaint in the description of the property by including the omitted extent of 0.09 cents, in the aforesaid suit in S.No.431/7.

3.According to the petitioner that the said sale deed was executed by Annamalai Padayatchi on 14.04.1977 in S.No.431/7 to an extent of 0.09 cents. Therefore, there is no new cause of action or new pleadings raised by the petitioner in the aforesaid suit and the said application filed by the petitioner/plaintiff ought to have allowed.

4.Notice served to the respondents. None appeared for the respondents.

5.By considering the facts and submissions of the learned counsel for the petitioner and perused the materials on record. The petitioner has filed an application to amend the averment in the plaint.

But the description of the property has already stated in the plaint to be included the omitted extent of 0.09 cents due to the typographical mistake. Therefore, filing the present application to amend the plaint in the description of the property, by including the omitted extent of 0.09 cents, in the aforesaid suit in S.No.431/7 would not change the character and nature of the suit. It is seen from the records that the said property also shown in the sale deed executed on 14.04.1977 and in the plaint it has already stated on the basis of the sale deed dated 14.04.1977.

6. Therefore, this Court is inclined to interfere in the order passed by the Court below, and the impugned order is liable to be set aside.

7. In fine, the impugned order dated 04.07.2015 made in I.A.No.627 of 2015 in O.S.No.92 of 2011 passed by the learned II Additional District Munsif, Ulundurpet is set aside and the Civil Revision Petition is allowed. Consequently, the connected Miscellaneous Petition is closed. However, there is no order as to costs.

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06.03.2018

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Issue order Copy on 02.05.2018

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

To

The II Additional District Munsif,
Ulundurpet.



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D. KRISHNAKUMAR J.,

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