



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 17.04.2018

CORAM

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THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.R.P. (PD) (MD) .No. 92 of 2018
and C.M.P. (MD) No. 395 of 2018

Xavier Primus Rajan .. Petitioner/Respondent/Defendant

Vs.

Rajamma ..Respondent/Petitioner/Plaintiff

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the Fair and Decreetal Order dated 03.11.2017 in I.A.No.421 of 2017 in O.S.No.415 of 2009 on the file of the learned Principal District Munsif Court, Padmanabhapuram.

For Petitioner : Mr. Meenakshisundaram
For Respondent : Mr.C.Godwin

O R D E R

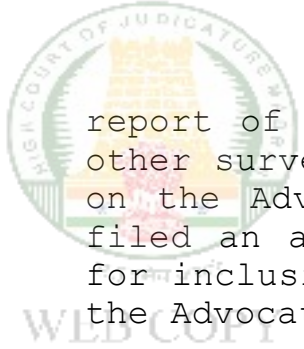
The petitioner has come forward with this Civil Revision Petition to set aside the Fair and Decreetal Order dated 03.11.2017 in I.A.No.421 of 2017 in O.S.No.415 of 2009 passed by the learned Principal District Munsif, Padmanabhapuram.

2. The petitioner is the defendant and the respondent is a plaintiff in O.S.No.415 of 2009. The plaintiff has filed O.S.No.415 of 2009 before the Principal District Munsif Court, Padmanabhapuram seeking declaration of title, possession and for other reliefs. During pendency of the suit, the respondent/plaintiff filed I.A.No.421 of 2017 in O.S.No.415 of 2009 under Order 6 Rule 17 and Section 151 of Civil Procedure of Code to amend the plaint and the trial Court has allowed the interlocutory application on payment of cost of Rs.500/- (Rupees Five Hundred Only) to the respondent/defendant by the petitioner/plaintiff. Aggrieved over the same, the revision petitioner has come forward with this Civil Revision Petition.

3. Heard the learned counsel for the revision petitioner and learned counsel for the respondent and perused the documents available on record.

<https://hcservices.ecourts.gov.in/hcservices/>

4. The original claim made by the respondent/plaintiff is in respect of 1 acre 50 cents in one survey number only. In the



report of Advocate Commissioner, it is stated that there are two other survey numbers are also inclusion of 1 acre 50 cents. Based on the Advocate Commissioner's report, the respondent/plaintiff filed an application in I.A.No.421 of 2017 in O.S.No.415 of 2009 for inclusion of two other survey numbers, which were mentioned in the Advocate Commissioner's report.

5. The plaintiff's relief is only in respect of 1 acre 50 cents in the plaint. Because of the inclusion of two other survey numbers, the respondent/plaintiff filed the amendment application. The trial Court allowed the application for amendment. The amendment sought for by the respondent is for inclusion of two survey numbers only, but the total extent of 1 acre 50 cents is not exceeding, but it is well within the three survey numbers. Apart from this, the amendment sought for has not changed the character of the suit. Therefore, the well considered opinion need not be interfered by this Court. Hence, I am not inclined to entertain this Civil Revision Petition.

6. Accordingly, the Civil Revision Petition is dismissed by confirming the Fair and Decreeal Order dated 03.11.2017 in I.A.No.421 of 2017 in O.S.No.415 of 2009 passed by the learned Principal District Munsif, Padmanabhapuram. The learned Principal District Munsif, Padmanabhapuram is directed to dispose of the suit in O.S.No.415 of 2009, within a period of four months from the date of receipt of copy of this order, by conducting the trial on day-to-day basis without giving any adjournments to either parties and the parties are also directed to give their fullest cooperation for early disposal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

1. The Principal District Munsif, Padmanabhapuram.

+1 cc to MR.C.GODWIN, Advocate SR.No.61860

+1 cc to MR.D.NALLATHAMBI, Advocate SR.No.61812

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