



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRP(MD)No.1353 of 2016 (PD)
and
CMP(MD)No.6467 of 2018

Ganagasabapathi

... Petitioners

Vs.

1.Sha.Jeenathul Paritha

2.Subbammal

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A No.115 of 2016 in O.S No.206 of 2010 dated 12.04.2016 on the file of the District Munsif Court, Srivaikundam.

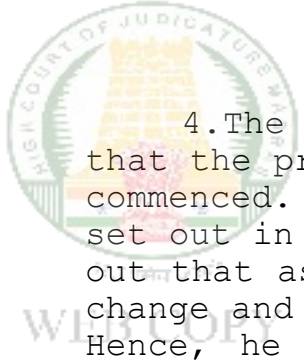
For Petitioner	: Mr.K.Karthick
For Respondents	: Mr.R.Nandakumar for R1
	No appearance for R2

ORDER

The plaintiff in O.S No.206 of 2010 on the file of the District Munsif Court, Srivaikundam is the revision petitioner herein. It is a suit for declaration and permanent injunction as well as mandatory injunction. The plaintiff filed I.A No.115 of 2016 for amending the survey number as 940/27 instead of 940/28. The said I.A was dismissed by the court below on 12.04.2016. Questioning the correctness of the said order, this civil revision petition has been filed.

2.Heard the learned counsel for the petitioner and the learned counsel for the first respondent.

3.The learned counsel appearing for the first respondent raised very many grounds opposing the prayer made in this civil revision petition. He would point out that the plaintiff has been in the habit of making successive amendments. In fact, it has been pointed out by the court below in the impugned order. Originally, he had given the survey number as 940/26. The same was amended as 940/28. Now, he wants the survey number to be amended as 940/27.



4.The learned counsel for the first respondent also contended that the present amendment application was taken out after the trial commenced. Therefore, the amendment will have to meet the standard set out in the proviso to Order 6 Rule 17 of C.P.C. He also pointed out that as a result of the proposed amendment, the boundaries will change and that will in turn alter the character of the suit itself. Hence, he wanted this Court to sustain the order passed by the court below.

5.I am unable to agree with the said contention raised by the learned counsel for the first respondent. It is seen that the four boundaries description as originally given in the suit schedule will remain as such. All that the plaintiff now seeks is to amend the survey number alone. Excepting this amendment, no other amendment is sought for. This Court is of the view that since the four boundaries description are not going to be changed and merely because the survey number is changed, no prejudice will be caused to the respondent.

6.In this view of the matter, the order impugned in this civil revision petition is set aside and this revision petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/
Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar(CS-IV)

To

The District Munsif, Srivaikundam.

+1cc to Mr.K.KARTHICK, Advocate, SR.No.84196

+1cc to Mr.R.Nandakumar, Advocate, SR.No.83829

CRP(MD)No.1353 of 2016 (PD)
and
CMP(MD)No.6467 of 2018
11.09.2018

SKM

KK/SV/SAR-4/09.11.2018/2P-4C