



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRP(MD)No.1851 of 2016 (PD)

and

CMP(MD)No.8890 of 2016

R.Thangavel ... Petitioner/Respondent/1st Defendant

Vs.

1.A.Ramasamy

2.K.S.Rajamani

3.K.S.Subramanian ... Respondents 2 & 3/Respondents 2 & 3/
Defendants 2 & 3

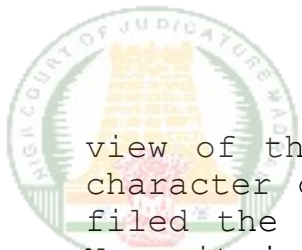
Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order made in I.A No.614 of 2015 in O.S No.239 of 2013 on the file of the Principal District Munsif, Karur dated 11.08.2016.

For Petitioner	: Mr.S.Gokul Raj
For Respondents	: Mr.P.Athimoolapandian for R1 No appearance for R2 & R3

ORDER

The first defendant in O.S No.239 of 2013 on the file of the Principal District Munsif Court, Karur is the revision petitioner. The said suit was filed by the respondents herein seeking the reliefs of declaration and permanent injunction. In the said suit, I.A No.614 of 2015 was filed for amending description of the suit schedule. The said I.A was allowed by order dated 11.08.2016. Questioning the same, this civil revision petition has been filed.

2.The learned counsel appearing for the revision petitioner pointed out that the order impugned in this civil revision petition is rather cryptic and that the objections raised in the counter have not been considered. He also pointed out that in



view of the change in the description of the suit schedule, the character of the suit itself will be altered. The plaintiff had filed the suit on the strength of a sale deed dated 04.07.1996. Now, it is not open to him to question the description contained in the said sale deed. He raised the plea of estoppel also by placing reliance on the decision of the Hon'ble Supreme Court reported in (1998) 1 SCC 278 (Heeralal vs. Kalyan Mal and others) which holds that an admission once made, cannot be withdrawn in the guise of amendment of pleadings.

3.I am of the view that the order impugned in this civil revision petition does not call for any interference. All that has been done is only a change in the description of the suit schedule. Whether the plaintiff having come to the court on the strength of the sale deed dated 04.07.1996 can now contend that the description of the suit schedule as a whole is erroneous is a point to be gone into in the main suit. I am of the view that the character of the suit is not altered merely because one of the boundaries has been amended.

4.This Court cannot lose sight of the fact that it is only a pre-trial amendment. Leaving open all the contentions available to the revision petitioner, this civil revision petition is dismissed. The suit is of the year 2013. The revision petitioner is at liberty to file his additional written statement raising further pleas. Since the suit is of the year 2013, the court below is directed to dispose of the same within a period of six months from the date of receipt of a copy of this order.

5.This civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS-IV)

To

1.The Principal District Munsif, Karur.
+1 CC To MR.S.GOKULRAJ, Advocate SR. NO. 82683

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SKM