



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) (PD) No.2216 of 2016

and

C.M.P. (MD) No.10281 of 2016

Chinnayan (Died)

- 1.Pillaiyar
- 2.Subbaiah
- 3.Mariappan
- 4.Ayyadurai
- 5.Ganesan
- 6.R.Krishnan
- 7.P.Krishnan
- 8.Ramalakshmi
- 9.Jeyalakshmi
- 10.Iyyamal

... Petitioners/Petitioners/Appellants/
Plaintiffs

/Vs./

- 1.Singam
- 2.Ramar
- 3.Krishnan
- 4.Paramasivam, President.
5. South Venkanallur,
Chithamparapuram's Devendrakullavellalar,
Community
through its village Nattanmai Raj

...Respondents / Respondents/
Respondents / Defendants

Prayer: Civil Revision Petition - filed under Article 227 of the Constitution of India, to call for the records relating to fair and decretal order passed in I.A.No.203 of 2009 in A.S.No.77 of 2007 dated 29.06.2016 on the file of the Sub Court, Srivilliputhur and to set aside the same.

For Petitioners	: Mr.H.Arumugam
For R-1, 2 & 5	: Mr.M.Vijaya Rathinam
For R-3 & R-4	: No appearance

ORDER



petitioners herein. It is a suit for declaration, recovery of possession and mandatory injunction. The suit was originally decreed. But on Appeal, the judgment was set aside and the matter was remanded. After remand, the suit suffered dismissal. Aggrieved by the same, the revision petitioners filed A.S.No.77 of 2007 before the Sub Court, Srivilliputtur. In the said First Appeal, I.A.No.203 of 2009 was filed for making some amendments in the plaint. The said Interlocutory Application was dismissed by order dated 29.06.2016. Questioning the correctness of the same, the civil revision petition came to be filed.

2. The learned counsel appearing for the respondents wanted this Court to sustain the order passed by the Court below. He pointed out that the amendment being not a mere post trial amendment, but post judgment amendment, in the first appeal, strict approach ought to be adopted.

3. The learned counsel for the revision petitioners contended that the plaintiffs only want to give up a portion of their suit claim. It appears that the suit is in respect of the Survey No.169 measuring an extent of 86 ½ cents. It is further seen that the road was laid across the said suit property and therefore, the plaintiffs want to give up their claim in respect of the road portion.

4. If that being so, in my view, the application for amendment in the plaint is not at all required. As per Order 23 Rule 1 CPC, it is always open to the plaintiff to abandon even a part of the cause of action, likewise Order 7 Rule 7 CPC also states that the Court can grant relief even for a lesser extent.

5. In view of the matter, I am of the view that for reducing the suit claim or giving up or relinquishing the portion of the suit claim, the amendment is not at all necessary. Hence, the order passed by the Court below in I.A.No.203 of 2009 in A.S.No.77 of 2007 dated 29.06.2016 on the file of the Sub Court, Srivilliputhur is confirmed.

6. With the above observations, the civil revision petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is dismissed.

Sd/-
Assistant Registrar(w)

/True Copy/

Sub Assistant Registrar(CS-I)

To

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

The Sub Judge, Srivilliputhur.



COPY TO

The Record Keeper, Vernacular Section, (2 copies)
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.H.Arumugam, Advocate Sr.No.81573
+1cc to Mr.M.Vijaya Rathinam, Advocate Sr.No.81623

SM

VB/RP/SAR1/01.10.2018/3P/6C

Order made in
C.R.P. (MD) (PD) No.2216 of 2016
30.08.2018