



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2018

CORAM

THE HON'BLE MRS.JUSTICE S.RAMATHILAGAM

C.R.P.(PD) (MD) No.409 of 2011

and

M.P.(MD)No.1 of 2011

Ramalingam

... Revision Petitioner/Petitioner/
Plaintiff

Vs.

1. Veeramalai

2. Sivakumar

3. Tahsildar,
Tahsildar Office,
Kulithalai.

4. Revenue Divisional Officer,
Revenue Divisional Office,
Kulithalai.

5. District Collector,
Collector Office,
Karur.

... Defendants/Respondents/Respondents

PRAYER:- Civil Revision Petition is filed, under Section 227 of the Civil Procedure Code to set aside the fair and decreetal order in I.A.No. 398 of 2010 in O.S.No.102 of 2007, on the file of District Munsif Court, Kulithalai.

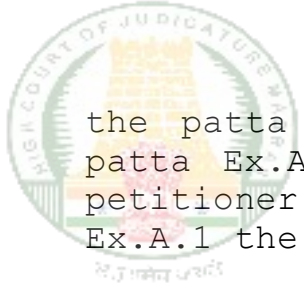
For Petitioner : Mr.K.Govindarajan

For R1 & R2 : Mr.H.Lakshmi Sankar

O R D E R

This Civil Revision Petition has been preferred against the decreetal order passed in I.A.No.398 of 2010 in O.S.No.102 of 2007, on the file of District Munsif Court, Kulithalai.

2. The brief facts of the case are that the petitioner herein, as the plaintiff before the trial court, has filed the suit for injunction. It has been stated by the revision petitioner that at the time of filing the suit, he has given the discrepancy of the suit property as per the certified copy of the patta, which was issued by the Tahsildar, Kulithalai. During the trial, the petitioner's father died and the original patta came to his knowledge and the same was marked as Ex.A.1. The petitioner has stated that there is variation of extent in the certified copy of



the patta issued by the Tahsildar, Kulithalai and the original patta Ex.A.1. Hence, on the basis variation in the extent, the petitioner seeks for amendment with regard to extent alone as per Ex.A.1 the original patta.

3. The learned counsel appearing for the petitioner submitted that the petitioner, who is the plaintiff before the trial court, was examined. After the death of the father of the petitioner/plaintiff, he has filed the amendment application. The trial court has erred in dismissing the application by giving a finding that when the case was posted for further evidence on the side of the petitioner/plaintiff, the petitioner filed the application seeking amendment and no reason has been stated by the petitioner for filing the application belatedly.

4. The learned counsel appearing for the respondents 1 and 2 submitted that the trial court has rightly dismissed the application and there is no error in the order of the trial court.

5. Heard both sides and perused the records.

6. The point for consideration is whether the order of the trial court passed in I.A.No.398 of 2010 in O.S.No. 102 of 2007 is sustainable in law or not?

7. On a perusal of records, it is seen that the plaintiff was examined before the trial court and the original patta was marked as Ex.A.1. It is also the grievance of the petitioner that after filing of the suit and during the pendency of the suit, when the plaintiff's father died the original patta was obtained by the petitioner and the case was filed based on the certified copy of the patta issued by the Tahsildar, Kulithalai. Only after verifying the original patta i.e Ex.A.1 the variation in the extent came to his knowledge and unless the extent that is occurred in the ceritifed copy issued by the Tahsildar in the original patta is to be corrected, the petitioner will be very much put into inconvenience to prove his case. The petition filed before the trial court was dismissed on the reasons that no reason has been stated by the petitioner for such delay seeking amendment. The learned counsel for the respondents 1 and 2 before this Court.

8. Considering the above stated facts, this Court is of the view that in the event of amendment is carried out by the plaintiff, the respondents 1 and 2 herein are having an opportunity to assess the exact extent. There will not be prejudice to the defendants 1 and 2 if such an amendment is made in the plaint as per the original patta. Unless this amendment is to be proved by way of evidence incorporated in the plaint, the purpose of filing the suit is not a purposeful one.



9. In the result, this Civil Revision Petition is allowed and the order passed in I.A.No. 398 of 2010 in O.S.No.102 of 2007, on the file of District Munsif Court, Kulithalai, is set aside. Since the suit is of the year 2007, the trial court is directed to dispose of the suit within a period of three months from the date of receipt of copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To:

1. Tahsildar,
Tahsildar Office,
Kulithalai.
2. Revenue Divisional Officer,
Revenue Divisional Office,
Kulithalai.
3. District Collector,
Collector Office,
Karur.

+1cc to Mr.K.Govindarajan, Advocate Sr.No.40477
+1cc to Mr.H.Lakshmi Sankar, Advocate Sr.No.40457

CM

VB/MR/SAR3/26.02.2018/3P/6C

**C.R.P. (PD) (MD) No.409 of 2011
and
M.P. (MD) No.1 of 2011
04.01.2018**