

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2019

CORAM :

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

C.R.P.No.1378 of 2001

and

C.M.P.No.7436 of 2001

1. Selvi
2. Manikandan
3. Arivuvel

... Petitioners

Vs.

1. Kumarasamy (Deceased)
2. Somu
3. Vasudevan
4. Ganapathy
5. Kaveriammal(Died)
6. N.Mani
7. K.Santhi
8. K.Vimala
9. K.Kalai selvi
10. Sankaran
11. S.Murugan
12. S.Venkatesan
13. S.Kanthavelu
14. Usha Mageshwari Somu
15. K.K.Kuppusamy Educational Trust,

Rep. By its Managing Trustee, K.K.C., Senthil Kumar,
No.4/11, Velayutha Nagar,
Jayankondam, Ariyalur District.

(R7 to R9 brought on record as LR's of the deceased R1 viz.,
Kumarasamy, Vide Court Order, dated 14.11.2017 made in
CMP.No.1815 to 1817 of 2009 in CRP.No.1378 of 2001 (MVMJ)
(R10 to R14 brought on record as LR's of the deceased R5 viz.,
Kaveriammal, Vide Court Order, dated 14.11.2017 made in
CMP.No.1818 to 1820 of 2009 in CRP.No.1378 of 2001 (MVMJ)
(R15 impleaded Vide Court order, dated 14.11.2017 made in
C.M.P.No.425 of 2014 in CRP No.1378 of 2001 (MVMJ)

.. Respondents

PRAYER: Civil Revision Petition filed under Article 115 of the
Civil Procedure Code, against the fair and decreetal order,
dated 20.09.2000, made in I.A.No.163 of 2000, in O.S.No.41 of
1983 on the file of the Subordinate Judge's Court, Ariyalur.

For Petitioner : Mrs.Abbirami
for M/s.Sarvabhauman Associates
For R2 & R4 : No appearance
For R6 : Mr.M.V.Krishnan
For R7 : Mrs.Vijaya
for M/s.Vijaya and Anandh
For R8 to R15 : Not ready in Notice
R1,3 & 5 : died

O R D E R

This Civil Revision Petition has been filed as against the order of the learned Subordinate Judge, Ariyalur passed in I.A.No.163 of 2000, in the application has been filed for amendment of Final Decree on the ground that in the decreetal portion, one of the items of the property namely 43 shown in the suit has been omitted to be typed.

2. It is to be noted that the Final Decree itself is passed, based on the report filed by the Commissioner. There is no dispute with regard to passing of Final Decree by the parties to the suit that on the basis on the Commissioner's Report, the trial Court had passed the Final Decree allotting the "A" Schedule property.

3. In the "A" Schedule property item No.43, has been clearly mentioned. However, in the decreetal portion it has not been included and it is only due to the clerical mistake. The sixth respondent has no objection. The fourth respondent objected for such correction. Infact, the final decree itself if passed, based on the Commissioner's Report, the Commissioner has clearly given the description of property to be allotted to the plaintiff. In fact, all the "A" Schedule property is allotted to the plaintiff, whereas in the decreetal portion alone the property as shown to be in the Commissioner's Report is omitted. It is nothing but clear error or omission. When there is no serious dipute with regard to the allotment of the properties and the Commissioner's Report, the Court can correct the errors at any time either on own motion or also on application by the parties under Section 152 of C.P.C.

5. Heard both sides and perused the materials available on record.

6. The learned Subordinate Judge has not considered the application under Section 152 and simply dismissed the application, only on the ground the petition is not maintainable. Such approach of the trial Court is not fair,

requiring interference, of this court.

7. Hence, the mistake crept in the decreetal portion appears only clerical mistake or omission, which did not include one of the survey number which allotted to the plaintiff as shown as "A" Schedule property and the same can be corrected by amending the final decree.

8. Accordingly, the Civil Revision Petition is allowed for necessary correction at decreetal portion of the final decree. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

ssi

To

1. The Subordinate Judge, Ariyalur.

+1 CC to M/s.Sarvabhuman Associates sr 9953.

+1 CC to M/s.Vijaya & Anandh, Advocate sr 9809.

+1 CC to Mr.M.V.Krishnan, Advocate sr 9631.

C.R.P.No.1378 of 2001

VD(CO)
SP(10/04/2019)

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