

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2019

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

C.R.P.No.472 of 2019
and C.M.P.No.3237 of 2019

Karpagam

... Petitioner

-Vs-

Mari Naicker

... Respondent

Prayer : Civil Revision Petition under Article 227 of the Constitution of India against the fair and decreetal order dated 12.10.2018 passed in I.A.No.1534 of 2018 in O.S.No.194 of 2012 on the file of the District Munsif, Maduranthakam.

For Petitioner : Ms.R.Gouri
For Respondent : Mr.S.Udayakumar

ORDER

This revision has been filed against the fair and decreetal order dated 12.10.2018 passed in I.A.No.1534 of 2018 in O.S.No.194 of 2012 by the District Munsif, Madhurantagam.

2. Before the trial Court, the plaintiff filed a petition in I.A.No.1534 of 2018 under Order VI Rule 17 to make an amendment and the said petition has been dismissed by the impugned order, against which the present revision has been filed by the plaintiff / petitioner.

3. Heard Ms.Gouri, learned counsel for the petitioner and Mr.Udaya Kumar, learned counsel for the respondents and perused the materials placed on record.

4. Before the trial Court, the said application was filed to make an amendment, where the revision petitioner sought for an amendment on the ground that, the Survey number of the suit property has been wrongly mentioned as 407/6, whereas the correct survey number is 407/1 and therefore, the said amendment was necessitated.

5. The trial Court, however, dismissed the said application on the ground that the suit was filed long back, where written statement also had been filed and after a lapse of all these years, the present application has been filed and therefore, it cannot be entertained at this juncture and accordingly it was dismissed.

6. It is a settled proposition that, amendment can be permitted at any stage of the suit and moreover, in the present case, the suit property claimed to be the property of the plaintiff and in order to recover the possession of the suit property, the suit was laid by the plaintiff / revision petitioner, whereas in the schedule, the survey number was wrongly mentioned. Instead of 407/1 it has been mentioned as 407/6, which according to the petitioner, is a bonafide mistake.

7. However, the learned Judge has given a reason that, the said factor, though was brought to the notice of the plaintiff by the defendant, who filed a written statement, where this mistake has been stated, instead of filing the petition at the earliest, the plaintiff has belatedly filed the same after a long lapse and therefore, on that ground, it was not entertained and the petition was dismissed.

8. Though the said reason given by the learned Judge appears to be acceptable, the fact remains that if the amendment petition is not allowed and the suit is proceeded for trial, whatever is the decision of the trial Court in the said suit, that will be in respect of the suit property with a wrong survey number, thereby both the parties viz., the plaintiff and the defendant would be in trouble, as the plaintiff, in order to get relief of the suit property with correct survey number, cannot be driven to file a fresh suit, which would amount to multiplicity of proceedings, that too unnecessarily. That is the reason why the law permits the parties to file amendment petition if it is a genuine one, at any point of time during the trial and therefore, the said reason given by the learned Judge cannot be accepted.

WEB COPY

9. However, when this fact has been brought to the notice of the plaintiff, she could have chosen to file the application for amendment at the earliest. But, the plaintiff seems to have been in long slumber before filing this petition at the fag end of the trial and therefore, this Court feels that, while allowing this Civil Revision

Petition, some costs can be imposed on the revision petitioner.

10. In the result, the impugned order is set aside and the revision petition is allowed, of course with a cost of Rs.3,000/- payable by the revision petitioner to the respondent within a period of two weeks from the date of receipt of a copy of this order. The costs shall be paid directly to the learned counsel for the respondent herein and on receipt of the costs, the learned counsel for the respondent shall send the receipt through the counsel for petitioner to the lower Court counsel to enable him to approach the trial Court to proceed further, pursuant to the order of allowing this Civil Revision Petition.

11. With the above directions, the Civil Revision Petition is allowed with costs. Consequently, connected miscellaneous petition is closed. Since the suit is of the year 2012, the trial Court is directed to dispose of the suit within a period of six months.

सत्यमेव जयते

WEB COPY 14-10-2019

Index : Yes/No
Internet : Yes/No
KST

To

The District Munsif, Maduranthakam.

R. SURESH KUMAR, J.

KST



C.R.P. No.472 of 2019

WEB COPY

14.10.2019