



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

C.R.P.No.4097 of 2019

J.Parthiban

.. Petitioner/Petitioner/
Petitioner (Decree Holder)/Plaintiff

Vs.

1. K.Balan
2.K.Perumal

.. Respondents/Respondents/
Respondents (Judgment Debtor)/Defendants

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair order and decree dated 11.10.2018, made in E.A.No.13 of 2016 in E.P.No.17 of 2014 in O.S.No.63 of 2012, on the file of the learned District Munsif, Katpadi, Vellore District.

For Petitioner : Mr.K.A.Ravindran

- - - - -

O R D E R

Present revision has been filed against the order seeking to amend the description of the property before the Execution Court.

2. The petitioner has filed a suit in O.S.No.63 of 2012, for specific performance and the suit has been decreed ex parte. Thereafter, he filed an execution petition for execution of the sale deed under Order XXI Rule 34 of C.P.C. Pending E.P., as the description of the property has not been correctly given in the plaint schedule, the petitioner filed E.A.No.13 of 2016 before the Execution Court. The Execution Court dismissed the said application stating that at the execution stage, plea for an amendment to the boundaries as described in the original plaint cannot be entertained without seeking for amendment in the plaint and decree. Challenging the same, the present revision has been filed.

3. Heard the learned counsel appearing for the petitioner and also perused the records carefully.

4. In the execution petition filed under Order XXI Rule 34 of CPC, the petitioner has filed an application under



Order VI Rule 17 of CPC to amend the schedule of property in the Execution Petition. According to the petitioner, description of the property has not been correctly given in the plaint and therefore, he wants to correct the same. If there is any discrepancy in the description of the suit property the only remedy available to the petitioner is to approach the trial Court to get it rectified in the plaint and filing a petition in the Execution Court to amend the schedule of property in the decree is not maintainable. The trial Court considering all these aspects dismissed the said application and directed the petitioner to approach the concerned Trial Court to get it amended. This Court does not find any illegality or irregularity in the same as the trial Court has rightly dismissed the application. There is no merit in the revision and the same is liable to be dismissed.

5. In the result, the civil revision petition is dismissed and the order and decreetal order of the Court below, impugned in this revision petition, are hereby confirmed. However, it is open to the petitioner to take necessary application seeking for amendment before the Trial Court, if so advised. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kk

To
The District Munsif,
Katpadi.

+1cc to Mr.K.A.Ravindran, Advocate, S.R.No.104298

KJ(CO)
CB(15/07/2020)