

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2019

CORAM :

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

C.R.P. (PD)No.1285 of 2013
and M.P.No.1 of 2013

T.L.Rangasamy

.. Petitioner/Petitioner/Plaintiff

Vs.

1.The State of Tamil Nadu
Rep.by its District Collector at Erode
Collector Office
Erode District.

2. The Tahsildar,
Taluk Office, Bhavani

3. The Executive Officer
Anthiyur Town Panchayat
Bhavani

4. The Sanitary Inspector
Town Panchayat, Anthiyur Town
Bhavani Taluk

.. Respondents/Respondents/Defendants

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and final order dated 07.12.2012 made in I.A.No.1388 of 2012 in O.S.No.198 of 2011 on the file of the Principal District Munsif Court, Bhavani, Erode District.

For Petitioner : Mrs. Zeenath Begum
for M/s.T. Murugamanickam

For Respondents : Mr.N. Manikandan
Government Advocate

ORDER

This Revision Petition is filed against the order of the trial Court dismissing the application filed for amendment, to amend the boundaries of the properties. It is the contention of the Revision Petitioner that it is only a typographical error and the boundaries have not been properly set out and only one of the boundaries sought to be amended; there would not be any prejudice caused to the Respondents.

2. Whereas it is the contention of the Respondents that the trial has commenced. Only at the fag end of the trial this application has been filed deliberately in order to avoid dismissal of the suit. Earlier, a suit has been filed in respect of the same property for bare injunction. It was dismissed and appeal also confirmed. To get over the above now the boundaries sought to be changed. The trial Court in its order dated 07.12.2012 taken note of the fact that P.W.1 and P.W.2 examined and the application also filed by the Revision Petitioner for

further examination of witnesses and 27 Exhibits have already been marked. At the relevant point of time this application came to be filed. The trial court took note of the fact that earlier suit filed in O.S.No.704 of 1998 in respect of the same suit property of course for different relief viz., seeking relief of permanent injunction, was dismissed and appeal also confirmed and reached finality and finally held that by way of amendment the Plaintiff trying to change the boundaries to get over the earlier suit and dismissed the application.

3. I have perused the entire order and heard the submissions of both the learned counsel.

4. The trial Court has given a finding that for the same property, earlier suit in O.S.No.704 of 1998 was filed for Permanent Injunction. The above suit was dismissed after full trial and appeal also dismissed. Now the present suit is filed for declaration on the strength of adverse possession and the trial has already commenced and P.W.1.and P.W.2 examined and several documents i.e.,Exs.A.1 to A.27 have been made. At this stage this application filed to amend the boundaries. It is to be noted that though it appears to be a clerical error in respect of the boundaries, the issue in respect of suit boundaries was already in

issue in the previous suit. The above suit was also dismissed. At this stage the change of boundaries or amending the boundaries in the suit certainly will change the nature of the suit properties itself. Therefore, I am of the view that there is no infirmity found in the order of the trial Court. Accordingly the Civil Revision Petition is dismissed. Connected M.P.is closed. No costs.

07.02.2019

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To

- 1.The State of Tamil Nadu
Rep.by its District Collector at Erode
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Erode District.
2. The Tahsildar,
Taluk Office, Bhavani
3. The Executive Officer
Anthiyur Town Panchayat
Bhavani
4. The Sanitary Inspector
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N.SATHISH KUMAR, J.

ggs



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