

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2019

CORAM :

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

C.R.P(PD)No.3878 of 2013

and

M.P.No.1 of 2013

1. Lenin
2. Jayamani

... Petitioners/Defendants

Vs.

S.Duraisamy

... Respondent/Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, as against the order dated 11.09.2012 made in I.A.No.232 of 2012 in O.S.No.114 of 2011 on the file of the learned District Munsif Cum Judicial Magistrate, Neyveli, Cuddalore District.

For Petitioners : Mr.S.Gunasekaran

For Respondent : No appearance

ORDER

This Civil Revision Petition has been filed against the Order dated 11.09.2012 made in I.A.No.232 of 2012 in O.S.No.114 of 2011, on the file of the learned District Munsif Cum Judicial Magistrate, Neyveli, Cuddalore District, allowing the application to amend the suit

2. The suit in O.S.No.114 of 2011, has been originally filed for Permanent Injunction, against the defendant.

3. Heard, the learned counsel appearing for the revision petitioner and perused the entire records, available on record.

4. It is the main contention of the respondents herein, during the pendency of the suit the petitioners encroached portion of the suit property and put up construction shown in the "B" schedule property. Therefore, application has been filed by the revision petitioner to amend the plaint in I.A.No.195 of 2012, the petitioners by mistake omitted to point out encroached portion as "B" schedule property.

5. The trial Court taking note of the fact that only during trial the amendment was sought for and no prejudice would be caused to the defendant, since, it is not going to change the character of the suit. Hence, as the suit in O.S.No.114 of 2011 itself filed for permanent injunction, correcting the mistake in the application filed for amendment would not cause any prejudice to other side. The order of the trial Court does not suffer from any illegality or infirmity and the

parties at liberty to canvas the case in the trial Court.

6. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

18.02.2019

Index: Yes/No
Speaking/ Non-Speaking
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To

1. The District Munsif Cum Judicial Magistrate, Neyveli, Cuddalore District.
2. The Section Officer, VR Section, Madras High Court.



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N.SATHISH KUMAR, J.

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