



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.11.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

C.R.P. (PD) (MD) No.2160 of 2012

and M.P.No. 1 of 2012

WEB COPY

Senbagaramapuram Arulmigu
Sudalaimadaswamy Kovil
Worshippers rep. by P.Paramasivan
Chenbagaramapuram
anjugramam post, azhagappapuram Village
Agasteeswaram Taluk,
Kanyakumari District. ... Petitioner/Petitioner/Plaintiff

-vs-

1.Ramaiah Thevar
2.T.Poopandian ... Respondents/Respondents/Defendants

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 12.07.2012 passed by the Principal District Munsif, Nagercoil, Kanyakumari District, in I.A.No.23 of 2012 in O.S.No.165 of 2009.

For Petitioner : Mr.E.V.N.Siva
For Respondents : Mr.J.Anandkumar

O R D E R

This Civil Revision Petition has been filed challenging the order passed by the Court below dismissing the application filed under Order VI Rule 17 of the Code of Civil Procedure seeking to amend the plaint.

2.The petitioner is the plaintiff and a suit was filed against the respondents/defendants seeking for the relief of declaration and permanent injunction. The respondents/defendants also filed a written statement.

3.The petitioner filed an amendment application under Order VI Rule 17 of the Code of Civil Procedure seeking to amend the description of the property and also to add certain averments in the plaint. The Court below dismissed the application mainly on the ground that the amendment virtually changes the entire description of the property and a new case is sought to be brought in by the plaintiff.



4. Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondents.

5. A careful reading of the amendment petition shows that the description of the property as found in the schedule to the plaint completely differs in the amendment petition. There is a change in the survey number, description of property, boundaries and also the location of the property. By allowing such an amendment, a new case will be brought forth by the petitioner, since the entire description of the property itself changes. The Court below was right in dismissing the application and this Court does not find any illegality or infirmity with the order passed by the Court below.

6. In view of the above, the petitioner cannot be permitted to amend the plaint and prosecute the suit. The best course that can be adopted by the petitioner is to withdraw the present suit by seeking leave to file a fresh suit on the same cause of action. Only by resorting to this procedure, the petitioner will be able to prosecute the suit in an effective manner. Except to make this observation, this Court finds no reasons to interfere with the order passed by the Court below.

7. In the result, the civil revision petition is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar(CS)

RR

To
The Principal District Munsif
Nagercoil
Kanyakumari District.

+1CC TO MR.J.ANANDKUMAR, Advocate Sr. No.100149
+1CC TO MR.E.V.N.SIVA, Advocate Sr. No. 100711

C.R.P. (PD) (MD) No.2160 of 2012
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AVS (CO)
TR(05.12.2019) 2P 4C