



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.06.2019

CORAM :

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

C.R.P. (PD) (MD) No.24 of 2014

and

M.P. (MD) .no.1 of 2014

1.Palaniappa Gounder
2.Vasavi

... Petitioners/Respondents/
Defendants

Vs.

Narayanan Mathari

... Respondent/Petitioner/
Plaintiff

PRAYER: Petition filed under Article 227 of the Constitution of India to allow the Civil Revision Petition and set aside the order passed in I.A.No.325 of 2013 in O.S.No.153 of 2009 on the file of the Sub-Ordinate Court, Palani, dated 27.09.2013.

For Petitioners : Mr.C.K.M.Appaji
For Respondent : Mr.P.Aathimoolapandian

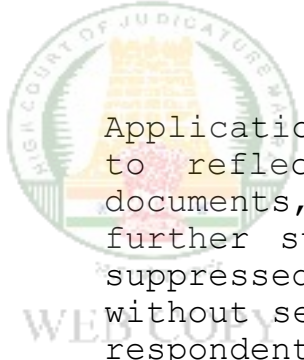
ORDER

This Civil Revision Petition is filed to set aside the order passed in I.A.No.325 of 2013 in O.S.No.153 of 2009 dated 27.09.2013, on the file of the Sub-Ordinate Court, Palani.

2. The said Interlocutory Application was filed by the plaintiff under order 6 Rule 17 of C.P.C. for amendment of the plaint. Aggrieved by the order allowing the Amendment Application, the present Civil Revision Petition has been filed.

3. At the hearing today (04.06.2019), the learned counsel appearing for the revision petitioner invited the attention of this Court to the amendments that were sought to be made to the plaint by the plaintiff and contended that the said amendments would alter the very nature and character of the suit. Secondly, he contended that the suit was filed in the year 2009, whereas, the application for amendment was filed belatedly in the year 2013, when the suit was ready for trial.

4. In reply, the learned counsel appearing for the respondent submitted that the changes that were proposed to be made were not fundamental and did not have the effect of altering the nature and character of the suit. In order to substantiate this submission, the learned counsel referred to the changes by comparing the original plaint and the changes proposed thereto by the Amendment



Application. He also submitted that the amendments were necessary to reflect the correct factual position based on the parent documents, which were obtained after the filing of the suit. He further submitted that inspite of lodging caveat, the respondent suppressed the filing of the case and obtained an interim order without serving the papers on the learned counsel appearing for the respondent.

5. In order to fortify his submission, the learned counsel appearing for the respondent referred to the following judgments:-

(I). **(2009) 4 MLJ 731-(C.D.Varadarajan Vs. S.Mohan and another)**, wherein, it was held that the Amendment Application is maintainable even though it is filed belatedly.

(ii). **2002 (4) CTC 189-(Sampath Kumar Vs. Ayyakannu and another)** in Paragraph Nos.9 and 11, wherein, the Supreme Court has held that the amendment should be permitted if it helps in avoiding multiplicity of proceedings.

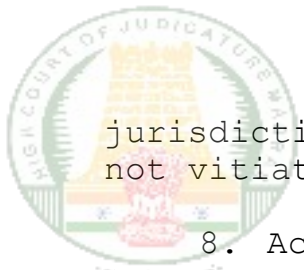
(iii). **(2015) 5 MLJ 800-(S.Kanthiammal and others Vs. Nagammal and others)** in Paragraph No.22, wherein, it was held that the amendment of pleadings can be carried out at any stage of proceedings in the interest of justice.

(iv). **2009 (1) CTC 81-(Muniswami Vs. M.Manickam and others)**, wherein, it was held that the amendment to substitute the survey number does not alter the nature and character of the suit.

(v). **2009 (4) CTC 37-(Sarathamani Vs. R.C.Chenniappan)**, wherein, it was held that the mis-description of the property does not amount to alteration of the nature, character and cause of action.

6. In view of the principles laid down in the above mentioned judgments, the learned counsel appearing for the respondent submitted that this revision petition is liable to be dismissed because the amendment did not alter the nature and character of the pending suit.

7. The pleadings and oral submissions of the parties were duly considered. It is clear that parties are given wide latitude to amend the pleadings under order 6 Rule 17 of C.P.C. In the present case, the Amendment Application has been filed before commencement of trial. Therefore, the Court had the discretion to consider the application for amendment and allow the same, if it did not alter the nature and character of the suit. On examining the plaint and the application for amendment, it is evident that the nature and character of the suit would not be altered by the amendments. It is the settled legal position that a revision petition is maintainable only if the Sub-ordinate Court exercises powers not vested in it or fails to exercise the jurisdiction vested in it or commits patent and material irregularities in the exercise of



jurisdiction. In this case, the order of the Sub-Ordinate Court is not vitiated in any of the above mentioned respects.

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

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Sd/-

Assistant Registrar(CS-I)

// True Copy //

Sub Assistant Registrar(CS)

tsg

To

1.The Sub-Ordinate Court, Palani.

2.The Record Keeper, V.R. Section,
Madurai Bench of Madras High Court, Madurai.(2 COPIES)

+1CC TO MR.P.THIMOOLAPANDIAN, Advocate Sr. No.66841

+1CC TO MR.C.K.M.APPAJI, Advocate Sr. No. 66830

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