



WEB COPY

C.R.P. (PD) (MD) Nos. 567 and 568 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 15.11.2019

DELIVERED ON : 26.11.2019

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P. (PD) (MD) Nos. 567 and 568 of 2014
and
M.P. (MD) Nos. 1 and 1 of 2014

1. Esakki
2. G. Murugan
3. E. Esakkimuthu

.. Petitioners/Respondents/Defendants
in both C.R.Ps.

Vs.

P. Kollappan

.. Respondent/Petitioner/Plaintiff
in C.R.P.No. 567 of 2014

Suchar

.. Respondent/Petitioner/Plaintiff
in C.R.P.No. 568 of 2014

Common Prayer : This Civil revision petitions filed under Article 227 of Indian Constitution, to set aside the fair and decreetal order passed in I.A.Nos. 462 and 481 of 2013 in O.S.Nos. 440 and 442 of 2009 on the file of the learned I Additional District Munsif, Tirunelveli dated 03.12.2013.

For Petitioners (in all C.R.Ps.) : Mr. T. Selvan

For Respondent (in all C.R.Ps.) : Mr. G. Venugopal

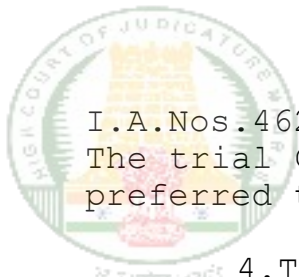
For Mr. M. P. Senthil

COMMON ORDER

Heard the learned counsel appearing on either side.

2. These petition have been filed against the order passed in I.A.Nos. 462 and 481 of 2013 in O.S.Nos. 440 and 442 of 2009 on the file of the learned I Additional District Munsif, Tirunelveli dated 03.12.2013.

3. The petitioners herein are the defendants and the respondent herein is the plaintiff in the suits. The respondent herein has filed suits in O.S.Nos. 440 and 442 of 2009 for a prayer of declaration and for injunction. The respondent filed petitions in



I.A.Nos.462 and 481 of 2013 for a prayer of amendment in the plaint. The trial Court allowed the petitions. Against which, the defendants preferred these revision petitions.

4.The brief substance in I.A.Nos.462 and 481 of 2013 is as follow:-

The plaintiff has filed petitions to amend the survey number of the suit properties. The suit properties were assigned to the petitioners by the Government. The respondent is a third party and they disturbed the possession of the plaintiff. At the time of filing of the suit, the petitioners mentioned the survey number as 254/1A. At the time of the visit of the Advocate Commissioner, the petitioners came to know that the survey number did not tally with the actual land and they approached the Government Authorities and the authorities corrected the mistakes and issued patta with correct survey number. It is stated that no new cause of action will be introduced and the amendment will not change the nature of the suit and the amendment is to be allowed.

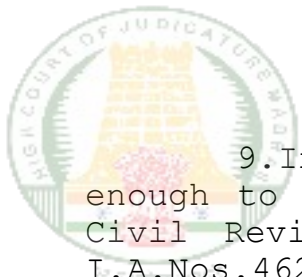
5.Brief substance of the counter is as follow:

Already evidence on both sides were over and this petition was filed. When the case was posted for arguments. Allowing the amendment will change the entire nature of the case and the petition is to be dismissed.

6.The trial Court after considering both sides, allowed the petition on payment of costs of Rs.750/- (Rupees Seven Hundred Fifty only) to the respondent. Against which, the defendants preferred these revision petitions.

7.On the side of the revision petitioners, it is stated that the trial Court failed to note that the petitioners' property is situated in 245/1B. This mistake was pointed out in the written statement itself. The petition was filed belatedly to drag on the proceedings and to fill up the lacuna. It is beyond the scope of Order VI Rule 17 of CPC. The mistake is not a typographical error and the petition is to be dismissed.

8.It is seen that the revision petitioners has stated in their written statement that the survey number of the suit property is 254/1B and not survey number 254/1A. The respondent failed to take immediate action and filed this petition at a belated stage. It is seen that even the revision petitioners have admitted that the survey number is wrongly mentioned. To avoid technical flaw, the amendment is necessary. As the recording of the evidence is over and as the Commissioner has already visited the property, there may not be a chance for changing the nature of the suit.



9. In the above circumstances, there is nothing sufficient enough to interfere in the order passed by the trial Court. These Civil Revision Petitions are dismissed and the order passed in I.A.Nos.462 and 481 of 2013 in O.S.Nos.440 and 442 of 2009 on the file of the learned I Additional District Munsif, Tirunelveli dated 03.12.2013 is confirmed. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

Mrn
To

1.The I Additional District Munsif, Tirunelveli.

+1 CC to M/s.T. SELVAN, Advocate (SR-101880[F] dated 27/11/2019)

+1 CC to M/s.M.P. SENTHIL, Advocate (SR-101839[F] dated 27/11/2019)

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