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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

C.R.P.No.429 of 2020
and
C.M.P.No.2234 of 2020

K.Saroja

..Petitioner

Vs.

1. Pavithra
2. S.Narasimhan
3. P.Srinivasan Seenii Devapiran
4. T.Suresh
5. The Sub-Registrar,
Joint-1, Chennai-South,
Jeenis Road, Saidapet,
Chennai - 600 05.

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 17.09.2019 passed in I.A.SR.No.26373 of 2019 in O.S.No.1364 of 2014 pending on the file of the learned II Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.L.Rajendran
For respondent 1 : Mr.S.Sridhar

O R D E R

Present revision has been filed against the order dismissing the petitioner's application filed under Order VI Rule 17 C.P.C. to amend the plaint.

2. The petitioner is the plaintiff in the suit. She filed the suit for permanent injunction restraining the first defendant from alienating the suit property through the 5th defendant in any manner and also for a mandatory direction to the first defendant to comply with Clause 14 of the Joint Venture Agreement dated 15.11.2012 and to complete the project within the stipulated time namely on or before 25.04.2014 and also for a permanent injunction restraining the first defendant from handing over possession to the defendants 2 to 4.



3. The above suit has been filed on the ground that the first respondent without complying with the joint venture agreement entered into between the petitioner and delayed the construction. Further, in violation of joint venture agreement, the first respondent is trying to sell the flats to the prospective purchasers. The trial in the suit was completed, and the suit is posted for arguments. At this stage, the petitioner has come up with the present application seeking a direction to amend the plaint by adding a prayer to direct the first defendant to pay a sum of Rs.55,50,000/- towards the sale consideration with interest. That application came to be dismissed by the trial Court. Now, challenging the same, present revision has been filed.

4. Heard the learned counsel appearing for the parties and also perused the records carefully.

5. Originally the suit was filed on the ground that the first defendant promoter failed to follow the joint venture agreement and delayed the construction. Now, the present application has been filed on the ground that during cross examination, the first defendant admitted that she has sold the flat for Rs.1,11,00,000/- and as per the joint venture agreement 50% of the sale consideration has to be paid to the petitioner, as the same has not been paid, hence the present amendment application has been filed. The trial Court dismissed the said application on the ground that post trial amendment application is not maintainable and also it is barred by limitation. The original suit is for permanent injunction and also for mandatory injunction. Now the petitioner wants a different prayer for payment of sale consideration, and if the amendment application is allowed it will totally change the nature of the suit and the cause of action and that too at post trial stage. The trial Court considering all the above aspects dismissed the application. I do not find any illegality or irregularity in the same as the trial Court has rightly dismissed the said application. There is no merit in the revision and the same is liable to be dismissed.

6. In the result, the civil revision petition is dismissed and the order of the Court below, impugned in this revision is hereby confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kk



To

The II Assistant Judge,
City Civil Court, Chennai.

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+1cc to Mr.S.Sridhar, Advocate, S.R.No. 10224

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KS (CO)
KKV/14/07/2020