

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 08.12.2020**

**CORAM:**

**THE HONOURABLE MR.JUSTICE V.SIVAGNANAM**

**C.R.P.(P.D).No.597 of 2019**  
**and C.M.P.No.3992 of 2019**

1.B.S.Padmavathy  
2.B.S.Nandagopal  
3.B.S.Gopalakrishnan  
4.B.S.Raghunath  
5.B.S.Govardhanan  
6.B.S.Vijaylakshmi  
7.Sriranjani  
8.Vox Realities Pvt. Ltd.,  
Represented by its Managing Director  
G.Ravanam

...Petitioners

1.Kousalya Ramakrishnan  
2.Sudhakar

...Respondents

**Prayer:** Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decretal order in I.A.No.255 of 2017 in O.S.No.212 of 2008, on the file of the Principal District Judge, Tiruvallur, dated 15.02.2018.

For Petitioners : Mr.V.Lakshminarayanan

For Respondents : No appearance

**ORDER**

This Petition has been filed to set aside the order and decretal order in I.A.No.255 of 2017 in O.S.No.212 of 2008, on the file of the Principal District Judge, Tiruvallur, dated 15.02.2018.

2.The suit in O.S.No.212 of 2008 is filed by the 1st respondent herein for permanent injunction.

3.Pending suit, the 1st respondent herein has filed the application I.A.No.255 of 2017 on the file of the Principal District Court, Tiruvallur.

4.After hearing both sides, the learned trial Judge allowed the application on 15.02.2018, on the ground that the amendment sought for by the 1st respondent would not change the nature of the case or the rudimental claim of the 1st respondent.

5.Against the order of the learned trial Judge, made in I.A.No.255 of 2017 dated 15.02.2018, the petitioners are before this Court with the present Civil Revision Petition.

6.The learned counsel for the petitioners submitted that the trial Court order is contrary to law and unjust, on the fact of the case. If the amendment is allowed, it will change and alter the nature of the suit.

Further, the limitation period to challenge the registered instrument is three years from the date of registration or from the date of knowledge and he further reiterated the other grounds raised in the Civil Revision Petition.

7. Heard the learned counsel for the petitioners and perused the materials available on record.

8. The plaintiff has filed the suit to declare the title over the plaint schedule property and also for declaring the cancellation of sale deed executed by the defendants 1 to 7 on 24.09.2007 and also declaring the sale deed by 5<sup>th</sup> defendant in favour of the 9<sup>th</sup> defendant dated 15.11.2007, not binding the plaintiff. Cancellation of sale deed executed by the defendants 1 to 7 in favour of the 5<sup>th</sup> defendant on 24.09.2007 and also prayed for permanent injunction as against the defendants 1 to 9. After that filed a petition to amend the plaint and stated by mistake and oversight the relief, that the release deed executed in favour of the defendants 1 to 4 and 6 to 7 in favour of the 5<sup>th</sup> defendant dated 24.09.2007, is null and void, has not been prayed for but he mentioned the fact in the cause of action only during the trial, he found the omission. Hence in order to avoid technical defect and for complete adjudication of the dispute between the parties, filed the

petition to amend the plaint as detailed in the amendment petition. All amendments of the pleadings should be allowed which are necessary for determination of the real controversies in the suit, provided the proposed amendment does not alter or substitute a new cause of action on the basis of which the original suit was raised. In this case, the amendment will not introduce a new cause of action or it will not change the nature of the suit, because already the fact was disclosed in the cause of action. Further, the amendment is not affected by limitation or barred by limitation. The merit of the averments sought to be incorporated by way of amendment are not to be judged at this stage of allowing the prayer for amendment.

9.It is open to the learned counsel for the defendant to raise the point of merits of the prayer and limitation during the trial. I find no error in the order of the trial Court. So I confirm the order of the trial Court and dismiss the Civil Revision Petition. No costs. Consequently connected miscellaneous petition is closed

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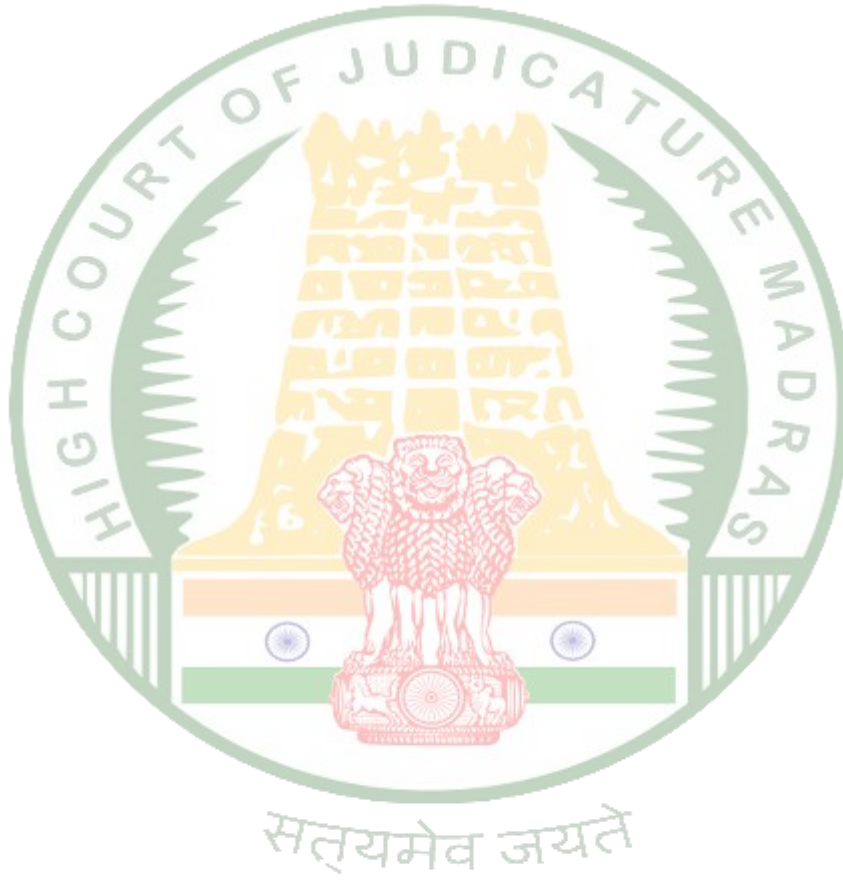
**08.12.2020**

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Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No



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**V.SIVAGNANAM.J,**

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