

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.01.2020

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

C.R.P.(PD).No.2496 of 2015
and
M.P.No.1 of 2015

S.A.Elumalai

.. Petitioner

Vs.

1.R.Kumarasamy
2.K.Shanthi
3.K.Ushanandini
4.K.Chitra

... Respondents

Prayer:

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 23.12.2014 passed in I.A.No.145 of 2014 in O.S.No.81 of 2012 on the file of Principal District Judge, Vellore.

For Petitioner : Mr.P.Chandrasekar

O R D E R

The Civil Revision Petition has been filed challenging the order dismissing the petitioner application filed under Order 6 Rule 17 of Civil Procedure Code to amend the plaint.

2.The petitioner/plaintiff filed a suit for specific performance to execute a sale deed pursuant to a sale agreement dated 12.03.2007. According to the petitioner, in the above sale agreement, the respondents/defendants had agreed to sell an extent of 3.5 acres of land at the rate of Rs.5,000/- per cent but, they failed to execute the same and hence, the suit came to be filed. Pending the suit, the petitioner filed an application to amend the schedule of properties to include 2 more properties on the ground that the respondents had agreed to sell 3.5 acres of land, but, due to oversight at the time of filing the suit, he has not included two more properties and hence, he wants to amend the schedule of properties.

3.The trial Court dismissed the application stating that as per the sale agreement, the defendants have agreed to sell 3.50 acres of land, but, in the suit scheduled properties, the petitioner has sought for 4.71 acres of land which is more than 3.5 acres. Hence, there is no necessity to include some more properties and dismissed the application. Now, challenging the same the present Civil Revision Petition has been filed.

4.I have heard and considered the submissions of the learned counsel appearing for petitioner, and perused the records carefully.

5.The case of the petitioner/plaintiff is that the respondents/defendants agreed to sell 3.5 acres of land but, did not execute the sale deed and now, the petitioner/plaintiff submits that he has failed to include two more properties in the suit scheduled properties. Hence, he wants to amend the schedule. On a perusal of the alleged agreement, it is seen that no survey number has been given but, only 3.5 acres of land is mentioned. The trial court after considering the materials has held that when the sale agreement mentioned about 3.5 acres, by way of amendment, the plaintiff wants to include more extent, and if it is permitted it will change the cause of action and dismissed the suit.

6. I have carefully gone through the entire material available on record and find no illegality or irregularity in the order passed by the Trial Court, and I find no merit in this Civil Revision Petition. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

tsg

To

The Principal District Court, Vellore.
+1cc to M/s.P.ChandraSekar, Advocate, SR.NO..No.3342

C.R.P. (PD) .No.2496 of 2015

RLP (CO)
GS (27/07/2020)