

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2020

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

C.R.P.(NPD).No.762 of 2013
and M.P.No.1 of 2013

P.V.Krishnamurthi

..Petitioner/1st defendant.

..Vs.

1.Raman

2.Raja

3.T.P.Rajannan

..Respondents 1 to 3
/plaintiffs

4.Sekar

5.The Deputy Commissioner

Hindu Religious and Charitable endowments

Dharmapuri.

..Respondents 4 and 5
/defendants 2 and 3

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order in I.A.No.1000 of 2012 in O.S.No.135 of 2011 dated 16th October 2012, on the file of District Munsif, Pallacode.

For Petitioner : Mr.V.Raghavachari

For respondents : Mr.Aravind Gosh,

Government Advocate for R5

R 1 to R 4 – Notice served. No appearance.

ORDER

The respondents 1 to 3 filed suit against the petitioner and respondents 4 and 5 for declaration declaring that the suit properties belong to Pappinayakanhalli Arulmigu Hanumantharayasamy Thirukovil and for permanent injunction in O.S.No.135 of 2011 on the file of District Munsif, Pallacode.

2. The petitioner herein filed the written statement. After filing the written statement, the respondents 1 to 3/plaintiffs filed an application to amend the plaint Under Order 6 Rule 17 CPC. The said petition was allowed subject to condition. Challenging the said order passed in I.A.No.1000 of 2012, the petitioner/1st defendant in the suit is before this court by way of this civil revision petition.

3. The learned counsel for the revision petitioner would submit that though the respondents 1 to 3 filed the suit in representative capacity for and on behalf of the common people of Pappinayakanhalli village, after publication, after filing the written statement, they filed the application to amend the plaint stating that they came to know that the suit mentioned property does not fall under the village of Pappinayakanhalli, but it falls

under Gollahalli village, therefore, the village Pappinayakanhalli has to be amended as Gollahalli village, which is against the law. They filed the suit under representative capacity for and on behalf of the Pappinayakanhalli village, but they have not filed suit for and on behalf of Gollahalli village. Therefore, simply, by way of amendment, the village cannot be amended. Therefore, the authorisation given by the Pappinayakanhalli village is not valid and they have to file the suit for and on behalf of only Gollahalli Village people after obtaining permission from the Gollahalli Village people. The trial court, failed to consider these vital legal aspects and simply allowed the application holding that the amendment will not change the cause of action or character of the suit. But, the said Amendment will change the character of the suit and introduce new cause of action. It warrants interference of this court.

4. The learned counsel for the respondents 1 to 3 would submit that the plaintiffs filed the suit for declaration declaring that the suit property belong to Pappinayakanhalli Arulmigu Hanumantharayasamy Thirukovil and for injunction and after filing suit, they came to know that the properties of the said temple not falls under Pappinayakanhalli village, but it falls under Gollahalli village, therefore, Pappinayakanhalli village has to be amended as

Gollahalli village and it will not change the nature and character of the suit, it will not introduce any new cause of action. Therefore, the trial court has rightly allowed the petition. The petitioner will not be prejudiced by the said amendment. Therefore, the revision has to be dismissed.

5. Heard and perused the records.

6. Admittedly, the respondents 1 to 3 herein filed suit in O.S.No.135 of 2011 on the file of the District Munsif, Pallacode, for declaration and injunction and the respondents 1 to 3 have filed the suit under representative capacity for themselves and representing the village people of Pappinayakanhalli village. During the pendency of the suit, after filing the written statement, the respondents 1 to 3 filed application under Order 6 Rule 17 CPC seeking permission of the court to amend the plaint that instead of Pappinayakanhalli village, it has to be amended as Gollahalli village.

7. Even a reading of paragraph 1 of the plaint, they have clearly stated that the property belong to Pappinayakanhalli Hanumantharayasamy Thirukovil. Whereas the property of the temple situated in Gollahalli village, hence, they wanted to amend the schedule of the property as Gollahalli

village instead of Pappinayakanhalli village. As stated by the learned counsel for the respondents 1 to 3, it does not change the cause of action. The contention of the learned counsel for the petitioner is not acceptable. The property belong to Pappinayakanhalli Arulmigu Hanumantharayasamy Thirukovil but the property is situated in Gollahalli village, but it is wrongly mentioned as Pappinayakanhalli Village. But it is not the case of the respondent/plaintiff that the suit property belong to Gollahalli Arulmigu Hanumantharayasamy Thirukovil. However, the suit filed for and on behalf of village people of Pappinayakanhalli village only. Therefore, the issue as to whether the property belong to Pappinayakanhalli Arulmigu Hanumantharayasamy Thirukovil or not, will only be decided at the time of trial. Therefore, they wanted to amend the schedule of the property as Gollahalli village instead of Pappinayakanhalli.

8. As stated by the learned counsel for the respondents 1 to 3, the amendment does not change the character of the suit. It will not introduce new cause of action. Since in the Schedule of the property, name of the village only sought to be amended, it has been rightly allowed and no prejudice will be caused to the petitioner.

9. In view of the foregoing discussions, this court does not find any perversity in the order passed by the District Munsif, Palacode, dated 16.10.2012 in I.A.No.1000 of 2012 in O.S.No.135 of 2011. Accordingly, this Civil Revision Petition is dismissed. The petitioner is at liberty to take their defence in the suit. Since the Original Suit is pending from the year 2011, after carrying out the amendment in the plaint, if the petitioner/1st defendant wants to file Additional written statement, they can file the same and after receiving the additional written statement, the trial court is directed to frame additional issues, if necessary and dispose the suit in accordance with law, within six months.

No costs. Consequently, connected Miscellaneous Petition is closed.

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Index: Yes/No

Speaking / Non Speaking

nvsri

To

1.The District Munsif, Pallacode.

2.The Section Officer, V.R. Section, High Court, Madras

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P.VELMURUGAN,J.

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