

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.R.P.(PD).No.3909 of 2019

Dr.Dhanapathy

...Petitioner

Vs

1.The Union of India,
Represented by Chief Secretary,
Government of Puducherry,
Having Office at Chief Secretariat,
Beach Road, Puducherry.

2.The Secretary (Revenue)
Having Office at Chief Secretariat,
Beach Road, Puducherry

3.The District Collector,
Having Office at Collectorate Complex,
Saram, Puducherry.

4.The Director of Survey,
Having Officer at Collectorate Complex,
Saram, Puducherry.

5.The Settlement Officer-II,
Directorate of Survey and Land Records,
Having Office Saram, Puducherry.

6. The Tahsildar, Taluk Office,
Having Office at Villupuram Road,
Villianur, Puducherry.

7.R.Nethaji,

8.R.Gunapathy.

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Indian Constitution of India to set aside the Fair and Decreetal order in I.A.No.1330 of 2015 in O.S.No.145 of 2014 and dated 09.09.2019 on the file of the Principal District Munsif, Pondicherry.

For Petitioner	: Mr.M.Himavanth
For R1 to R6	:Mr.Stalin Abimanyu Govt. Advocate (Puducherry)
For R7	: Mr.N.S. Sudharsana

ORDER

This Civil Revision Petition has been filed to set aside the order in I.A.No.1330 of 2015 in O.S.No.145 of 2014 dated 09.09.2019 on the file of the Principal District Munsif, Pondicherry

2.The Revision petitioner is the plaintiff in the Suit in O.S.No.145 of 2014. He has filed the suit for declaration of title with regard to B Schedule property and also for mandatory injunction against the defendants 4 and 5 to make necessary correction in the settlement register.

3.Pending the suit, the petitioner herein preferred the application in I.A.No.1330 of 2015 to amend the plaint.

4.After hearing both sides, the learned trial Judge dismissed the petition on the ground that if the alleged amendment is barred by 25 of Settlement Act even allowed it is of no use and it is mere waste of time of Court.

5.Therefore against the order of the trial Court in I.A.No.1330 of 2015 in O.S.No.145 of 2014 dated 09.09.2019, the petitioner is before this Court with the present prayer.

6.The learned counsel for the revision petitioner submitted that the petitioner is the plaintiff, he filed the suit for declaration of title over the B Schedule property and also for a mandatory injunction against the defendants/respondents 4 and 5 to make necessary correction in the settlement register and also in the field map respectively. To that effect, the petitioner gave an application dated 28.04.2010 to the Tahsildar, Villianur. He made an observation that correction in the EMP register has to be done by the 5th respondent/defendant and instructed through the letter dated 19.02.2013 advising him to approach the Civil Court as the respondents/defendants 7 and 8 objected. Therefore, he filed the petition

before the trial Court to amend the petition in order to make the entry in the settlement register. He gave detailed amendment in the petition. The trial Court after considering the statement of the learned counsel for the respondent, dismissed the petition on the ground that the relief sought for by way of proposed amendment is barred under Section 25 of the Settlement Act, Pondicherry. The learned counsel for the petitioner further submitted that the trial court misunderstood Section 25 of the Settlement Act that the provision is concerned to modification of any assessment made in this Act, not concerned with correction of mistake in the records. Therefore, the dismissal order of the trial court is unsustainable and unjust in law. The amendment is allowed, the plaint will be affected and reiterated other grounds raised in the revision grounds and pleaded to set aside the order of the trial and allow the Revision Petition.

7. The learned counsel for the respondent, in support of the order of the trial Court, he also reiterated that Section 25 of the Settlement Act barred the suits in Civil Court and pleaded to dismiss the Revision Petition.

8.Heard the learned counsel for the parties and perused the materials available on record.

9.The Revision petitioner is the plaintiff in the Suit in O.S.No.145 of 2014. He had filed the suit for declaration of title with regard to B Schedule property and also for mandatory injunction against the defendants/respondents 4 and 5 to make necessary correction of the settlement register. The plaintiff has filed the amendment petition before the Civil Court as per the instruction of the settlement of his letter dated 19.02.2013 to approach the Civil Court for make necessary correction in the settlement register.

10.I have considered the Section 25 of the Settlement Act enabling the provision and barring suits in Civil Court under Section reads as follows:

"25. (1) No suit lie in any civil Court to set

aside or modify any assessment made under this Act.

(2) Except as otherwise provided in this Act, the decision of any authority or officer under this Act shall be final and no civil Court shall have jurisdiction to decide or deal with any question which by or under this Act is required to be decided or dealt with by the authorities or officers under this Act."

the reading of the above said provision barring the suit with regard to setting aside or modify any assessment made in this Act, no correction of mistake in records. For correction of mistakes in records enabling provision is under Section 23 reads as follows:

"23 (1) The Director or the Settlement Officer may either of his own motion or on the application of any person---

(a) if he is satisfied that a bona fide mistake has been made in regard to any decision or proceedings under this Act, make or cause to be made the necessary correction thereon.

(b) at any time correct or cause to be corrected any clerical or arithmetical mistake in any such decision or proceeding.

(2) The Collector may at any time during the currency of the settlement, correct any error in the area of assessment of any Survey number or sub-division due to a mistake of survey or arithmetical miscalculation.

Provided that no arrears of land revenue accruing to the Government or refund thereof to the registered holder shall become payable by reason of such correction."

11. In the above said provision no bar to the Civil Court to give direction to the Settlement Officer for making correction in the records. So the trial Court misconstrued the provision under Section 25 of the Act and thereby dismissed the amendment sought for by the petitioner. The order of the trial Court is legally unsustainable and liable to be set aside. Accordingly, the order of the trial court is hereby set aside. The power of Court to amend is wide and hence the Court should not attached hyper technical approach, but on the other hand, liberal approach should be the general rule. The technicalities of law should not be permitted to hamper the administration of justice between the parties and amendments are to be

allowed in the pleadings to avoid multiplicity of litigation. So that, I am inclined to allow the Civil Revision Petition and setting aside the order of the trial Court.

12.In the result, order made in I.A.No.1330 of 2015 in O.S.No.145 of 2014 and dated 09.09.2019 is set aside and the Civil Revision Petition is allowed with no costs.

08.12.2020

Index: Yes/No
Speaking Order: Yes/No
vsn



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V.SIVAGNANAM.J,

vsn

To

- 1.The Chief Secretary,
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Beach Road, Puducherry.
- 2.The Secretary (Revenue)
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