



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.09.2020

CORAM

THE HON'BLE MR.JUSTICE S.S.SUNDAR

C.R.P. (PD) (MD)No.76 of 2019

and

C.M.P. (MD)Nos.10282 of 2019 and 4346 of 2020

Sri Mahilavaneswaraswamy Temple,
represented by its Fit Person,
Shanmugam,
Thanjavur District

: Petitioner/Petitioner/Plaintiff

.. Vs ..

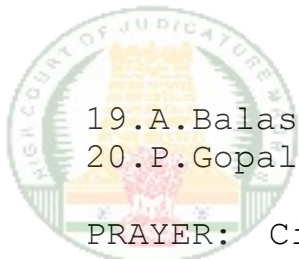
M.A.Abdul Kaffoor (Died)
1.M.A.Mohammed Mohideen
2.Farida Ammal

3.The Sub Registrar,
Adiramapattinam,
Adiramapattinam Town,
Pattukottai Taluk and Munsif,
Thanjavur District.

4.The District Registrar,
Pattukottai,
having Office at
K.M.S.Buildings,
Pattukottai Town and Munsif,
Thanjavur District.

5.The Tamil Nadu Government,
represented by the District Collector,
Thanjavur,
having Office at Collectorate,
Thanjavur.

6.Samsudeen
7.Razak
8.Mansoor
9.Elias
10.Habibunnisa
11.Aysha Ammal
12.Ameena Ammal
13.Abida
14.Anas
15.Masilamani
16.S.Rajamanickam
17.P.Balasubramaniam



19.A.Balasubramaniam

20.P.Gopalakrishnan

: Respondents/Respondents/Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the return endorsement made by the learned District Munsif at Pattukottai in unfilled I.A.D.No.3041/2018 in O.S.No.26 of 2010, dated 04.10.2018 consequently, to direct the learned District Munsif at Pattukottai to number the petition and hear the petition on merits.

For Petitioner :Mr.M.R.S.Prabhu

For R1 & R2 :No appearance

For R3 to R5 :Mr.G.Gunaseelan Muthiah
Additional Government Pleader

For R15 to R20 : *Ex parte*

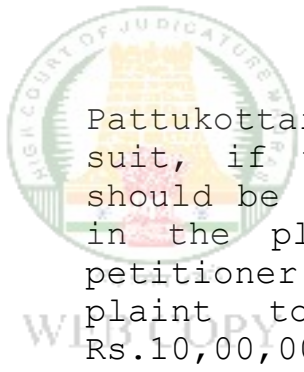
ORDER

This Civil Revision Petition is directed against order of learned District Munsif at Pattukottai in unfilled I.A.D.No.3041/2018 in O.S.No.26 of 2010, dated 04.10.2018, returning the petition for amendment of plaint in O.S.No.26 of 2010.

2.The petitions in C.M.P.(MD)Nos.10282 of 2019 and 4346 of 2020 are filed to implead the third parties as proposed respondents in the main revision petition. Having regard to the nature of order proposed to be passed by this Court in the main revision petition, this Court is of the view that these petitions are not necessary. Hence, these petitions are dismissed. However, liberty is given to the petitioners in these miscellaneous petitions to get themselves impleaded in the appeal stated to have been presented by the revision petitioner. If any application is filed by the petitioners in miscellaneous petitions, the same will be considered in accordance with law.

3.The revision petitioner filed a suit in O.S.No.26 of 2010 on the file of the District Munsif Court, Pattukottai, originally for permanent injunction. Subsequently, the prayer in the suit was amended one for declaration of title and for recovery of possession. It appears that the plaint was valued for a sum of Rs.10 lakhs and odd. While making some correction, it is seen that the value has been stated as Rs.10,02,250.20/-. Unmindful of valuation, the suit itself was disposed of on merits by judgment and decree, dated 09.07.2018 by the learned District Munsif, Pattukottai. Thereafter, the revision petitioner found that there is some mistake in the valuation as per the plaint, that was presented and amended subsequently.

4.It is to be noted that the District Munsif Court,



Pattukottai, would not have pecuniary jurisdiction to decide the suit, if the suit is valued at Rs.10,00,000/-. Therefore, it should be accepted that the valuation is not correct as mentioned in the plaint. It is in these circumstances, the revision petitioner filed an interlocutory application for amendment of plaint to correct the figure as Rs.10,000/- instead of Rs.10,00,000/- for the value of trees in the details of valuation.

5.This application was returned by the trial Court with an observation that the petition is not maintainable after the disposal of the suit. The interlocutory application was represented by the revision petitioner's Counsel with an endorsement that the Court has power to correct the mistake under Sections 151 and 152 CPC and that therefore, the petition is maintainable. Again the matter was returned and re-presented and against the third return of the application on the ground that the petition is not maintainable after the disposal of the suit, the present revision petition is filed to set aside the order of return of learned District Munsif, Pattukottai.

6.The learned Counsel for the petitioner argued elaborately that the Court has got inherent power to amend the plaint, even at the appellate stage, after the disposal of the suit. He relied upon several precedents for the proposition that the Court has got ample power to review its judgment, error in decree, if the mistake or omission is due to inadvertence. In the present case, the petitioner has sought for amendment of plaint regarding valuation of the suit as per the plaint. It appears that a mistake can be corrected as a clerical one and that the same cannot be considered in an application for amendment of plaint after the disposal of the suit.

7.The trial Court has become *functus officio*, after the disposal of the suit in O.S.No.26 of 2010. Thereafter, an application for amendment of judgment and decree, even if it is required, can be done. The learned Counsel for the revision petitioner submitted that he filed an appeal as against the judgment and decree in O.S.No.26 of 2010 and that the appeal was returned because of the wrong valuation shown in the plaint. It is in the said circumstances, this Court gives an opportunity to the revision petitioner to file a petition before the appellate Court to amend the plaint. It is submitted by the learned Counsel for the petitioner that the lower appellate Court can proceed with the appeal suit by accepting the valuation to sustain the maintainability of suit before District Munsif Court. The version of revision petitioner appears to be correct. However, there cannot be amendment of plaint after disposal of suit. The lower appellate Court, where, the appeal is pending, may deal with the application, having regard to the points noted by this Court and



the precedents relied upon by the learned Counsel for the revision petitioner.

8.Hence, the Civil Revision Petition is dismissed and the return endorsement made by the learned District Munsif at Pattukottai in unfilled I.A.D.No.3041/2018 in O.S.No.26 of 2010, dated 04.10.2018, is sustained. No costs.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

To

1.The District Munsif, Pattukottai,
Thanjavur District.

2.The Principal District Judge,
Thanjavur District, Thanjavur.
(With a request to forward this order copy
to the appellate Court at which Appeal Suit is pending)

3.The Sub Registrar,
Adiramapattinam,
Adiramapattinam Town,
Pattukottai Taluk and Munsif,
Thanjavur District.

4.The District Registrar,
Pattukottai, K.M.S.Buildings,
Pattukottai Town and Munsif,
Thanjavur District.

5. The District Collector,
Thanjavur.

+1 CC to Mr.M.R.S.Prabhu, Advocate (SR-16701[F] dated
11/09/2020)

+1 CC to SGP (SR-16832[F] dated 15/09/2020)

C.R.P. (PD) (MD)No.76 of 2019

11.09.2020

SRK (CO)

KM (23.09.2020) 4P 8C