



1BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2020

CORAM

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

C.R.P.(PD)(MD)No.1434 of 2015

and

M.P.(MD)No.1 of 2015

Vel Natchiar
represented through her Power Agent
Pooli Ramapandian

: Petitioner

.. Vs ..

1.Chelladuraipandian
2.Pooli Kulanthai Thuraichi
3.Anna Thuraichi
4.Lakshmithai
5.Subramanian
6.Theyavu
7.Muthulakshmi
8.Veluchamy
9.Ullamudaiyar

: Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to call for the records relating to the fair and decreetal order passed in I.A.No.97 of 2014 in O.S.No.63 of 2008, dated 07.11.2014 on the file of the Subordinate Court, Sankarankovil and set aside the same.

For Petitioner : No Appearance

For R1 : Mr.F.X.Eugene

For R4 to R6 : Mr.N.R.Prabhu

For R7 : Mr.M.P.Senthil

For R8 : Mr.Sudalayandi

ORDER

This Civil Revision Petition is directed against the order passed by the learned Subordinate Judge, Sankarankovil, made in I.A.No.97 of 2014 in O.S.No.63 of 2008, dated 07.11.2014.



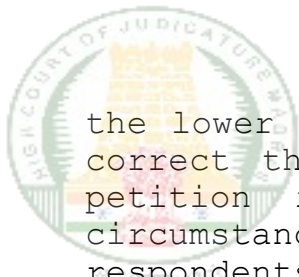
2.The petitioner's Counsel is absent and he is not connected to the video conferencing. However, Mr.F.X.Eugene, learned Counsel for the 1st respondent and Mr.M.P.Senthil, learned Counsel for the 7th respondent have elaborately argued the matter, as this Court was inclined to decide the revision petition on merits.

3.The petitioner filed the suit in O.S.No.63 of 2008 for declaration of title and for consequential injunction in respect of plaint schedule Item Nos. 1 and 2. The second relief is in respect of suit schedule Item No.2 for mandatory injunction directing the 7th defendant to hand over possession of plaint schedule Item No. 3. The 3rd Item was shown as part of property of 2nd Item. The further relief prayed for is also for mandatory injunction to remove the construction encroaching into the suit property.

4.It appears that the 7th defendant contested the suit by filing a detailed written statement. Some of the defendants have not filed their written statement. In the written statement, the 7th defendant stated to have raised a defence with regard to the property description found in the plaint schedule. The specific stand taken by the 7th defendant is that the boundary description for Item Nos.1 and 2 of the plaint schedule is not appropriate. Hence, the revision petitioner filed an application in I.A.No.97 of 2014 in O.S.No.63 of 2008 for amending the boundary description of plaint schedule. However, the trial Court dismissed the petition for amendment on the short ground that the amendment petition was filed after the commencement of trial. It is further observed by the trial Court that the mistake in the description of the property was pointed out in the written statement and that the long delay in correcting the description is not justifiable. Aggrieved by the same, the present Civil Revision Petition is filed.

5.This Court finds that the amendment is only to correct the property description found in the plaint schedule. Though it is vaguely contended by the learned Counsel for the 7th respondent that the property description even as per the amendment is not proper, this Court cannot dismiss the petition on that ground. The definite case of the 7th defendant that suit schedule Item Nos.1 and 2 have not been properly described will only suggest that there is an issue regarding description of property and that the amendment is to rectify some defects in the description of the property. It is not contended before this Court that the amendment of plaint schedule would result in substitution of the properties and pave way for including a new property.

6.Though the amendment petition was filed after commencement of trial, the object cannot be understood anything different from correcting the description of properties, so that there will be no confusion with regard to identity of properties. The observation of



the lower Court that no explanation was offered by the plaintiff to correct the plaint schedule property much earlier to dismiss the petition is not appropriate, having regard to the facts and circumstances of the case. No prejudice is caused to the respondents/defendants by allowing amendment. There is nothing to doubt the *bona fide* of revision petitioner/plaintiff Hence, this Court is inclined to allow this petition.

7.As a result, this Civil Revision Petition is allowed. The order passed by the learned Subordinate Judge, Sankarankovil, made in I.A.No.97 of 2014 in O.S.No.63 of 2008, dated 07.11.2014, is set aside. The application I.A.No.97 of 2014 in O.S.No.63 of 2008 stands allowed. It is open to the defendants to raise their objection by filing additional written statements regarding the property description as per amendment. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

The Subordinate Judge,
Sankarankovil.

+1 CC to M/s.M.P. SENTHIL, Advocate (SR-14131[F] dated 14/08/2020)

+1 CC to M/s.F.X. EUGENE, Advocate (SR-14274[F] dated 17/08/2020)

C.R.P.(PD)(MD)No.1434 of 2015

14.08.2020

cmr

SDS (26.08.2020) 3P-4C