



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.10.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

C.R.P. (PD) (MD) No.2097 of 2015

1.Kalyanasundram

2.Manimekalai

... Petitioners/Respondents 1 & 3/
Defendants 1 & 3

vs.

1.Sivalingam

2.Malarkodi

3.Maheswaran

4.Vijayalakshmi

5.Dhanalakshmi

...Respondents/Petitioners/Plaintiffs

6.Vaidyanathan

...Respondent/2nd Respondent/2nd Defendant

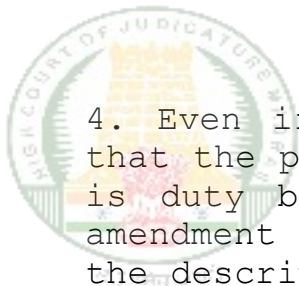
PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal dated 01.08.2015 in I.A.No.476 of 2014 in O.S.No.45 of 2011 on the file of District Munsif Court, Pattukottai.

For Petitioners	: Mr.V.Balaji
For R1 to R5	: Mr.C.Padmaraj
For R6	: Dispensed with

ORDER

This petition is filed challenging the order passed in I.A.No.476 of 2014, by which the trial Court has allowed the petition to amend the plaint.

2. The respondents herein are the plaintiffs and they have laid the suit for declaration of their title and other ancillary relief in respect of the suit property measuring 20 cents in Survey No.223/20D1A with well specified boundaries. The Commissioner has gone to the property and measured the same and laid his report sometime in the year 2012. The Commissioner has found that the extent available within the boundary is only 11 cents and not 20 cents. The trial of the case was concluded and the arguments is said to have been heard by the trial Court. At this juncture, the plaintiffs / respondents herein have moved the trial Court with an interlocutory application for amending the extent of the property shown both in the body of the plaint as well as in the description of the suit property in the plaint to correct the extent of the suit property from 20 cents to 11 cents. This petition was allowed, and this is challenged in this revision.



4. Even if the plaint is not amended, if the trial Court finds that the plaintiffs are entitled to only 11 cents, still the court is duty bound to grant a decree for 11 cents. Therefore, this amendment is more a cosmetic amendment to give more precision to the description of the property in the plaint.

5. The learned counsel for the petitioners also added that they are also purporting to change Survey number. It is settled law that where there is discrepancy between the survey number and the boundary description, the boundary description shall prevail. Any error in the boundary description is really not going to alter the character of the suit and no party is likely to be prejudiced. It is clarified that any admission made by any of the parties to the suit in the oral or documentary evidence, they will stand and the Court may consider their effect during the disposal of the suit.

6. This Court does not find any impropriety in the order of the trial Court warranting interference by this Court under Article 227 of the Constitution of India.

7. In fine, this Civil Revision Petition is dismissed. No costs. Since the trial is completed, the learned Munsif is required to dispose of the suit within a period of three months from today (07.10.2020).

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

ta/msa

To

1. The District Munsif,
Pattukottai.

2. The Section Officer -2 copies
V.R. Section, Madurai Bench of Madras High Court
Madurai.

+1 CC to Mr.C. PADMARAJ, Advocate (SR-19378[F] dated 08/10/2020)
C.R.P. (PD) (MD) No.2097 of 2015
07.10.2020

KM (19.10.2020) 2P 5C

<https://hcservices.ecourts.gov.in/hcservices/>