



C.R.P.(PD).No.694 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(PD).No.694 of 2020

and

C.M.P.No.3641 of 2020

Kuppusamy

.. Petitioner

Vs.

1.The District Collector,
Villupuram.

2.The Tahsildar,
Marakanam Taluk Office,
Thindivanam.

3.The Tahsildar,
Thindivanam Taluk Office,
Thindivanam.

4.Anandaraj

5.Elumalai

6.Kabirdoss

7.Purushothaman

8.Lakshmi

.. Respondents

1/6



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PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying set aside the Fair and Decretal order in I.A. No.958 of 2019 in O.S. No.65 of 2012 on the file of the Principal District Munsif Court, Thindivanam dated 06.12.2019.

For Petitioner : Mr.V.Lakshmi Narayanan

For Respondents : Mr.M.Bindran,
Additional Government Pleader
for R1 to R3
No Appearance for R4 to R8

ORDER

The plaintiff in O.S. No.65 of 2012 is on revision, challenging the order made in I.A. No.958 of 2019 dismissing his application for amendment of the plaint.

2. The suit in O.S. No.65 of 2012 was filed by the plaintiff/petitioner seeking declaration of his title for an extent of 1015 sq.ft. He described the property as measuring 29 sq.ft East West and 35 sq.ft. North South. The total extent in cents 0.02 1/3 cents.



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3. Pending suit, a Commissioner was appointed, he filed a report giving measurements of the property, which demonstrated that the plaintiff was in actual possession of a property measuring East West 32.8 sq.ft on the North, 36 Sq.ft on South, North South 24 sqft on the East and 34 on West side. The total extent also varied. After filing of the report of the Commissioner, the petitioner /plaintiff filed an application seeking amendment to bring the description of the property in tune with the report of the Commissioner.

4. This was resisted by the respondent contending that the application is highly belated and the amendment would change the very nature of the suit. The trial Court accepted the defence and dismissed the application.

5. Heard Mr.Lakshmi Narayanan, learned counsel for the petitioner and Mr.Bindran, learned Additional Government Pleader (CS) for the respondents 1 to 3. Respondents 4 to 8 though served are not appearing before this Court either in person or through counsel, duly instructed.



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6. Mr.Lakshmi Narayanan, learned counsel appearing for the petitioner would submit that the trial Court was not justified in rejecting the application, more so, when the plaintiff seeks to reduce the area of the suit property. He would point out that by the amendment, the plaintiff is only attempting to give the correct measurements of the property on all four sides and the amendment would only help the Court in deciding the controversy between the parties comprehensively. He would also point out that the plaintiff had explained the delay and had given reasons for not filing the application earlier in point of time.

7. The area of the property as per the measurements given by the Commissioner works out to 963 sq.ft. Originally, the plaintiff claimed the right over 1015 sqft. Now he wants to restrict it to 963 sq.ft. This amendment will not change the cause of action or the character of the suit. The plaintiff sues for declaration and if he proves his title, the suit will succeed, otherwise the suit will fail. The amendment only seeks to bring about more clarity in the description of the property and therefore this Court is of the opinion that de hors the delay, the trial Court should have allowed the



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amendment. Hence the Revision is allowed. Connected Miscellaneous

Petition is closed. No costs.

8. The Application in I.A. No.958 of 2019 will stand allowed. The trial Court is directed to permit the plaintiff to amend the plaint as prayed for in I.A. No.958 of 2019 and proceed to dispose of the suit in accordance with law.

15.12.2021

rkp

Internet : Yes

Index : No

Speaking order

To

1.The District Collector,
Villupuram.

2.The Tahsildar,
Marakanam Taluk Office,
Thindivanam.



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3.The Tahsildar,
Thindivanam Taluk Office,
Thindivanam.

4. The Principal District Munsif,
Thindivanam

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