

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2021

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P. (PD) No.566 of 2021  
and  
C.M.P.No.4805 of 2021

Nirmala

.. Proposed party/Petitioner/Petitioner

Vs

1.M.Dhanalakshmi

..Plaintiff/1<sup>st</sup> Respondent

2.S.Velraj

..Defendant/2<sup>nd</sup> Respondent/Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the Fair and Final order dated 18.01.2021 passed in I.A.No.1 of 2019 in O.S.No.244 of 2015 on the file of the Principal District Munsif Court, Erode and allow the Civil Revision Petition.

For Petitioner

..

Mr.S.Kaithamalai Kumaran

For R1

..

Mr.A.Sundaravadhanan

For R2

..

Mr.V.S.Kesavan

**ORDER**

There are two suits in which simultaneous trial took place before the learned Principal District Munsif, Erode.

2.The first suit was in O.S.No.211 of 2015. That suit had been filed by S.Velraj against the defendant Nirmala. That suit was for permanent injunction restraining the defendant from trespassing in the suit property. The suit property was Plot No.15, New Sub-Division No.1242/1 B2 outside Erode.

3.The second suit was in O.S.No.244 of 2015 and this suit had been filed by the plaintiff M.Dhanalakshmi against the defendant S.Velraj and this has been filed with respect to fixing the Northern boundary between the plot Nos.13 and 14 in the same area.

4.It is therefore to be noted that plot Nos.13, 14 and 15 are three adjacent plots.

5.Simultaneous trial had been conducted in both the suits. Parties had also adduced evidence. Both the suits are now posted for advancing arguments.

6.The present Revision Petition has been filed by the defendant in O.S.No.211 of 2015 seeking to implead herself as a party defendant in O.S.No.244 of 2015.

7.The reason for filing this Revision Petition is that, at the time of arguments in O.S.No.244 of 2015 an apprehension arose in the mind of the petitioner that there could be a possibility of O.S.No.244 of 2015 ending in a settlement reached between the parties. Settlement would be reached not only with respect to the issues raised in the plaint but also with respect to the counter claim in the written statement. The apprehension of the present revision petitioner is that if such a settlement is reached there would be a readjustment of the northern boundaries, which would affect plot Nos.14 and 15 and also by a cascading effect also possibly affect her southern boundary.

8.Counters had been filed by both the respondents in the said application namely, by the plaintiff in O.S.No.211 of 2015 and also the plaintiff in O.S.No.244 of 2015. They did not directly address the issue that there was a possibility of settlement regarding the issues between them.

9.At any rate, that is the only an apprehension in the mind of the petitioner herein.

10.The learned Judge dismissed the said application holding that it had been filed at very last minute, when the parties were called to advanced arguments and it was stated that the application had been filed to prolong the two suits. The application was dismissed.

11.I have carefully considered the arguments advanced by Mr.S.Kaithamalai Kumaran, learned counsel for the petitioner / defendant in O.S.No.211 of 2015 and Mr.A.Sundaravadhanan, learned counsel for R1 / plaintiff in O.S.No.244 of 2015 and Mr.V.S.Kesavan, learned counsel for R2 / plaintiff in O.S.No.211 of 2015.

12.I am confident that since evidence had been recorded, the learned Principal District Munsif, Erode, without considering any adjustment or concession made by the parties during the course of arguments would decide the issues raised based on the evidence recorded and on the pleadings. It is naturally expected from any court of first instance were the basic facts will have to be settled, that the facts are

settled only on the basis of the averments made in the pleadings and on the basis of evidence adduced, which evidence will also have to be tested during the course of cross-examination. Sifting of the evidence to determine the issues is the primary object for the parties to approach the Court of the first instance and put forward a case for trial.

13. At that particular stage, if a creeping suspicion arises in the mind, as in this case, of the revision petitioner that in an allied suit, there may be a possibility of settlement, then naturally there would be a reduction in the confidence level on the judiciary as a whole. It would therefore only be appropriate though it is not required and though the suspicion may not be well founded, still a request is placed before the learned Principal District Munsif, Erode to determine all issues, only based on pleadings, based on evidence recorded and based on the material records in the case. The learned Principal District Munsif, Erode, may not be swayed by any concession made during the course of arguments.

14. With the said observation, the Civil Revision Petition is

disposed of. No order as to costs. Consequently, the connected Civil Miscellaneous Petition is closed.

19.04.2021

Internet: Yes/No

Index: Yes/No

smv

To  
The Principal District Musif Court,  
Erode.



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**C.V.KARTHIKEYAN,J.**



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