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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2021

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

C.R.P.No.1098 of 2019

and

C.M.P.No.7223 of 2019

Rajendiran

...Petitioner/Plaintiff

Vs.

Subramani

...Respondent/Defendant

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order of the Learned Principal District Munsif, Tiruvannamalai dated 15.02.2019 made in I.A.No.145 of 2019 in O.S.No.177 of 2014.

For Petitioner : Mr.V.Prakash Babu

For Respondent : M/s.G.Sumitra

ORDER

This Civil Revision Petition is directed against the order passed by the Learned Principal District Munsif in I.A.No.145 of 2019 in O.S.No.177 of 2014.

2. The revision petitioner as plaintiff filed a suit in O.S.No.177 of 2014 for declaration of his title over the plaint "B" schedule property and for mandatory injunction directing the defendant to demolish the construction which he had put up over the "B" schedule property. The suit is also for recovery of possession of the "B" schedule property to the plaintiff.

3. The suit was contested by the respondent in this CRP on various grounds. For the present, we need not to go in detail as regards the nature of the defence raised in the written statement.

4. During the pendency of the suit, the revision petitioner filed an application in I.A.No.145 of 2019 in O.S.No.177 of 2014 for amendment of plaint. The amendment



proposed was to amend the "A" and "B" schedule of the plaint. While describing the "A" schedule property, the Plot Number in the description of the "A" schedule is given as 10. However, the plaintiff wanted the Plot Number to be read as Plot No.11. Similarly, the same amendment was also required with reference to the "B" schedule of the plaint. The further amendment was regarding the measurement of the suit "B" schedule property.

5. A detailed counter affidavit was filed by the respondent / defendant. The Lower Court dismissed the application only on the ground that the amendment filed at a belated stage cannot be entertained and that the proposed amendment would change the very nature of the suit. The Learned Judge observed that the amendment would affect the defence that has taken by the defendant. Aggrieved by the same, the plaintiff has filed the above Civil Revision Petition before this Court.

6. The learned counsel for the revision petitioner / plaintiff submitted that the Lower Court failed to appreciate the facts regarding the nature of amendment and the necessity to seek amendment of plaint. The learned counsel for the revision petitioner then submitted that the amendment proposed was clerical in the sense that while describing the property, a mistake had crept in.

7. From the nature of amendment, this Court is fully convinced that the amendment is only for the purpose of making corrections to correct the wrong description of the property with reference to plot number and measurement. With regard to plot number, the plaintiff wants to correct the Plot No. from 10 to 11. It is seen that the Plot No.10 is also given as one of the boundary of the suit property. If Plot No.10 is the property described in "A" schedule, it cannot be on the western side of Plot No.10 again. Similarly, the measurement also. This position is not even disputed before the Lower Court by the learned counsel appearing for the respondent. The amendment can be allowed when it is necessary for the purpose of enabling the Court for an effective adjudication.

8. From the reading of Order 6 Rule 17 of CPC, the Court may at any stage of the proceedings allow either party to alter or amend his pleadings as may be just if it is necessary for the purpose of determining the real issues that arise for consideration or the real dispute between the parties.

9. When the amendment is to correct the mistake that had crept in while drafting the plaint in relation to the description of the property, it is certainly necessary for the purpose of avoiding any other complications at a later stage of the proceedings.

10. It is the case of the revision petitioner that the amendment was felt necessary only when the Advocate



Commissioner filed his report pointing out the discrepancies.

11. In this case, the amendment is necessary for an effective adjudication and to avoid probable diversion of the Court's attention on unnecessary issues. Though the amendment is sought for after commencement of trial, this Court is of the view that proper explanation has been offered by the revision petitioner as to why this petition had not been filed before the commencement of trial. Merely because the amendment is filed 5 years after the institution of the suit, it cannot be held that the petition lacks bonafide.

12. This Court is unable to appreciate the observation of the Lower Court in the light of the facts that are admitted and as seen from records.

13. As a result, this Civil Revision Petition is allowed and the order of the Learned Principal District Munsif in I.A.No.145 of 2019 in O.S.No.177 of 2014 is set aside. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

raja

To

The Principal District Munsif,
Tiruvannamalai.

+1cc to M/s.G.Sumitra, Advocate SR. No.68034

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VGII (CO)
PR (21/02/2022)