

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2021

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

**C.R.P.(P.D) No.2081 of 2021
and C.M.P.No.15843 of 2021**

Muniammal

...Petitioner

Vs.

1.Poongodi

2.Govindan

3.Munusamy

4.Jaisankar

5.The Village Administrative Officer

Veppur Village & Post,

Veppur Taluk,

Cuddalore District.

6.The Tahsildar

Veppur Taluk,

Cuddalore District.

7.The Revenue Divisional Officer,

Vridhachalam Division,

Cuddalore District.

8.The District Collector,

Cuddalore District,

Cuddalore.

...Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 24.02.2021, in I.A.No.214 of 2020 in O.S.No.283 of 2016 passed by the learned Principal District Munsiff, Vridhachalam and allow this revision petition.

For Petitioner : Mr.R.Sethuvarayar

ORDER

This Civil Revision Petition is filed, challenging the order passed in I.A.No.214 of 2020 in O.S.No.283 of 2016 by the learned Principal District Munsiff, Vridhachalam.

2.The learned counsel for the petitioner submitted that this amendment petition was filed for amending the prayer by including the prayer (b) and also showing part of the “B schedule property” as “C schedule property”. This proposed amendment is filed after the commencement of the trial and therefore this amendment cannot be entertained. However, the learned Principal District Munsiff, Vridhachalam without considering the objection made by the Respondents allowed the

application in I.A.No.214 of 2020 in O.S.No.283 of 2016 on 24.02.2021 against which, the present Civil Revision Petition is preferred.

3.The learned counsel for the petitioner further submitted that the plaint in O.S.No.283 of 2016 was already amended once and this is second amendment. It shows that the plaintiff/first respondent is not interested in prosecuting the suit in O.S.No.283 of 2016, but only to protract the proceedings by filing repeated amendment petitions. It is again reiterated that filing of amendment petition after the commencement of trial is not entertainable.

4.Considered the submission of the learned counsel for the petitioner and perused the records.

5.Originally, the suit in O.S.No.283 of 2016 was filed by the first respondent, seeking prayer for declaring “B” Schedule property as plaintiff/first respondent's property, restraining the defendants from interfering with the possession and enjoyment of the suit property; directing

the defendants 5 to 8 to issue patta in respect of “B” Schedule property. Subsequently, there was an amendment in the prayer with regard to “B” Schedule property that the portion shown as E, E1, F and F1 encroached by the defendants 1 to 4 to an extent of 0.11-1/2 cent to be declared as plaintiff/first respondent's property. Now, the present amendment petition was filed to show this portion of the property alleged to have been encroached by defendants 1 to 4 as a separate property in “C” Schedule property. Another amendment is to include the prayer of permanent injunction. The nature of the case, claim made by both the parties show that there is dispute with regard to a portion of “B” Schedule property as to who is the owner of this property and in whose possession this property is now. Already there is a prayer for declaring the portion alleged to have been encroached by the defendants 1 to 4 as the property of the Petitioner. Now this property is sought to be shown as independent property in “C” Schedule property with a prayer for permanent injunction.

6. In the considered opinion of the court, the proposed amendment will no way alter the basic structure of the suit, rather will help the court in

effectively adjudicating the case. The only concern is that the amendment was filed after the commencement of trial. Though the amendment of the plaint cannot be normally entertained, once the trial is commenced, in some cases on the basis of the nature and facts of the case and to advance the cause of justice, Courts can be liberal in allowing the amendment application. This is one such case. On the facts and circumstances of this case and the nature of the relief claimed in the plaint, this court is of the considered view that proposed amendment is necessary for the effective adjudication of the case. In this view of the matter, order dated 24.02.2021, in I.A.No.214 of 2020 in O.S.No.283 of 2016 passed by the learned Principal District Munsiff, Vridhachalam is confirmed.

7.Resultantly, this Civil Revision Petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

ep/ay

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Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

G.CHANDRASEKHARAN.J,

ep

To

1.The Principal District Munsiff,
District Munsiff Court,
Vridhachalam.

2.The Section Officer,
VR Section,
High Court of Madras.



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