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C.R.P(PD)No.2782 of 2021
and CMP.No.20205 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(PD)No.2782 of 2021

and

CMP.No.20205 of 2021

Geetha Sekar

..Petitioner

Vs.

1.V.Indrani ammal

2.The Sub-Registrar,
Adyar, Chennai – 20.

3.The Sub-Registrar,
East Coast Road,
Neelankarai, Chennai – 41.

4.Arjuna Naicker

..Respondent

Prayer: Civil Revision Petition filed Article 227 of the Constitution of India, against the fair and decretal order dated 07.08.2019 allowing IA.No.28 of 2019 in OS.No.616 of 2009 on the file of the Additional District Munsif Court, Alandur.

For Petitioner : Mrs.Lita Srinivasan



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ORDER

Challenge in this revision is to the order of the Trial Court namely, Additional District Munsif Court, Alandur made in IA.No.28 of 2019, an application seeking amendment of the plaint, post trial.

2.The plaintiff in OS.No.616 of 2009, who had sued for declaration that the sale deed dated 27.08.1992 executed by K.G.Rangabashyam as a power agent of one D.Arjuna Naicker registered as Document No.3341/1992 as null and void and for a mandatory injunction, directing the defendants to demolish the existing construction made by the 1st defendant and for costs.

3.In the suit schedule, the plot number was given as L-IV. The survey number, extent and the boundaries were also specifically given. The 1st defendant resisting the suit contending that she has purchased the property from Arjuna Naicker's power agent, K.G.Rangabashyam and the sale deed is perfectly valid. After the trial was concluded, the plaintiff came up with the instant application, seeking amendment contending that a



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typographical error had crept in the plaint wherein, the plot number has been given as L-IV instead of L-VI, which was sought to be corrected.

4.The said application was opposed on the ground that it is a post trial amendment and the plaintiff has not given any reason as to why the application was not filed earlier in point of time, despite exercise of due diligence, in order to satisfy the requirements of proviso to Order VI Rule 17 of CPC. The learned Trial Judge, who heard the application concluded that it is a bonafide typographical error and the correction of the same will not affect the rights of the parties. On the validity of the sale deed questioned by the plaintiff, the learned Trial Judge has concluded that it is for the plaintiff to establish her title to the property as well as the invalidity of the sale deed. Therefore, the Trial Court concluded that allowing of this application seeking amendment will not affect the rights of the parties. The Trial Court also found that the requirements of the proviso are satisfied since the plaintiff has specifically stated that they discovered the mistake only at the time when they were preparing the written arguments in the suit. On the above conclusions, the learned Trial Judge allowed the application.



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5.Heard Mrs.Lita Srinivasan, learned counsel appearing for the petitioner.

6.Mrs.Lita Srinivasan would vehemently contend that despite her specific plea having been taken in the written statement that the plaintiff has not chosen to seek amendment, there were suggestions made in the cross-examination also to that effect. The very nature of the amendment sought for impels me to reject the contentions of the learned counsel. What is sought to be changed is only the plot number and nothing else. A look at the schedule of property in the plaint shows that it contains the survey number, extent, boundaries as well as the linear measurements of all four sides. Therefore, the change of plot number alone is not going to cause any prejudice to the defendant and it cannot be said that some right that has accrued to the defendant is being taken away by the amendment. It is after all a typographical error, which was discovered. This Court in **Palaniappa Gounder & Another Vs. Nallusami & Others** reported in **2005 (3) CTC**



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635 has held that such typographical errors can be corrected even after the decree having been granted in the suit. I therefore, do not see any reason to interfere with the order of the Trial Court. This civil revision petition therefore, fails and it is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed. It is open to the petitioner / defendant to file an additional written statement, if she so advised.

16.12.2021

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Index:No
Internet:Yes
Speaking

To:-

The Additional District Munsif Court,
Alandur.

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R.SUBRAMANIAN, J.

KKN

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