

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.NPD.No. 3295 of 2017

and

CMP.No.15374 of 2017

Thangammal (died)

1. Kumarraja

... Petitioner

Vs.

1. Valliammal

2. Maniammal

... Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to direct the District Munsif Court, Arni, to number the Amendment Petition in I.A.No.Nil of 2016, filed on 22.07.2016, in Diary No.2116/16 and direct to amend O.S.No.415 of 2006 decree dated 20.12.2010 on the file of District Munsif Court, Arni against A.S.No.05 of 2011 on the file of Subordinate Judge of Arni, Tiruvannamalai.

For Petitioner : M/s.P.Veena Suresh

For Respondents : Mr.P.Sathish Kumar (for R1)
: No Appearance Notice Served
(for R2)

ORDER

This Civil Revision Petition has been filed to direct the District Munsif Court, Arni, to number the Amendment Petition in I.A.No.Nil of 2016, filed on 22.07.2016, in Diary No.2116/16 and direct to amend O.S.No.415 of 2006 decree, dated 20.12.2010 on the file of District Munsif Court, Arni against A.S.No.05 of 2011 on the file of Subordinate Judge of Arni, Tiruvannamalai, thereby, rejecting the petition seeking amendment as not maintainable.

2. The petitioner is the plaintiff. The petitioner filed a suit for partition as against the respondents herein, in respect of the suit schedule property item Nos.1 to 4. The suit was decreed in respect of item Nos. 2 to 4 alone and in respect of item No.1 it was dismissed. Unfortunately, the decree drafted by the trial Court as item Nos.2 to 6 instead of 2 to 4. The schedule of property contains only the suit property as item Nos.1 to 4 alone. Aggrieved by the same, the petitioner preferred an appeal suit in respect of dismissal of the suit schedule property item No.1 and the appeal suit was also dismissed and confirmed the decree passed by the trial Court.

While executing the decree, the petitioner noted that in the decree, the suit property was mentioned as item Nos.2 to 6 instead of 2 to 4. Therefore, the petitioner filed a petition seeking amendment of the decree and the same was returned as not maintainable.

3. On a perusal of the plaint, the schedule of property, it contains only 4 items as follows:-

- “1. Punja Survey No.292/4A, Extent 0.50.0 Value Rs.60,000/-*
- 2. Punja Survey No.300/4A, Extent 0.04.5 Value Rs. 4,320/-*
- 3. Punja Survey No.290/4B, Extent 0.12.0 Value Rs.13,920/-*
- 4. Punja Survey No.290/8, Extent 0.14.5 Value Rs. 16,800/-”*

4. The trial Court decreed the suit for the schedule of property item Nos.2 to 4 alone but drafted as item Nos.2 to 6. There is no item Nos. 5 and 6 in the schedule of property. Therefore, it is just a necessary to correct the decree as schedule of property item Nos.2 to 4 instead of 2 to 6. Therefore, the petitioner is directed to re-present the petition seeking amendment of the decree passed in O.S.No.415 of 2006 within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the Court

below is directed to number the same and amend the decree accordingly.

G.K.ILANTHIRAIYAN,J.

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5. In view of the above discussion, this Civil Revision Petition is allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

12.02.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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Note: Registry is directed to return the impugned I.A.No.Nil of 2016 in O.S.No.415 of 2006 to the petitioner's counsel after substituting the xerox copy of the same.

To

1. The Subordinate Judge of Arni, Tiruvannamalai.
2. The District Munsif Court, Arni.

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