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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 21.01.2021

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRP(MD)No.114 of 2020

and

CMP(MD).No.647 of 2020

Mani

....Petitioner/4th Respondent/4th Defendant

vs.

1.Gopal (died)
2.Ponnammal
3.Reganathan
4.Muthukaruppan
5.Ramasamy

....Respondents/Petitioners/Plaintiffs

6.Manickam
7.Marudai
8.Duraiappan
9.Krishnan

...Respondents/Respondents 1 to 3 and 5
/Defendants 1 to 3 and 5

PRAYER: Petition filed under Article 227 of Constitution of India, against the order and decree dated 20.11.2019 passed in I.A.No.2 of 2019 in O.S.No.246 of 2007 on the file of the Principal District Munsif, Manaparai, Trichy District.

For Petitioner : Mr.B.Prahalad Ravi
For Respondents : No appearance

ORDER

This Civil Revision Petition has been filed against the order and decree dated 20.11.2019 passed in I.A.No.2 of 2019 in O.S.No.246 of 2007 on the file of the Principal District Munsif, Manaparai, Trichy District.

2.The petitioner herein is the fourth defendant in the suit. The first respondent who is the husband of the second respondent and the father of the respondents 3 to 5 herein had filed the suit in O.S.No.246 of 2007 on the file of the Principal District Munsif, Manaparai, Trichy District against the petitioner herein and other defendants, for bare injunction and the said suit was dismissed for default after impleading the respondents 2 to 5 on demise of the first respondent. Thereupon, the said suit was restored. Subsequent to the restoration of the suit, the respondents 2 to 5 herein had filed amendment application in I.A.No.440 of 2018 to amend the ~~plaint to include~~ the relief of declaration and the same was allowed on 02.07.2018 and the suit was posted for trial. Pursuant to the said amendment, respondents 2 to 5 had filed another amendment



application in I.A.No.2 of 2019 for altering the extension of suit property as per sale deed and to mention about the same in the plaint. After hearing the case, the learned Principal District Munsif, Manapparai allowed the said amendment application. Aggrieved over the same, the present Civil Revision Petition has been filed.

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3.The learned counsel for the petitioner would submit that the respondents had filed I.A.No.2 of 2019 for amendment of plaint when the suit was posted for argument and the said application cannot be entertained on the ground that the application has been filed belatedly as the suit was posted for argument. The amendment petition was filed only to introduce the new cause of action and also change the character of the suit and the same was filed to fill up the lacuna. But, the Court below has erroneously allowed the said application as against the settled principles of law. Hence, he sought before this Court to set aside the order passed in I.A.No.2 of 2019 and allow this Civil Revision Petition.

4.Heard the learned counsel for the petitioner and perused the materials available on record.

5.On perusal of record, the learned Principal District Munsif, Manapparai, Trichy District has observed that the respondents herein had filed the petition for amendment of plaint in pursuant to sale deed in respect of suit survey number. The petitioner herein had contended that the proposed amendment would change the character of the suit and the plaintiffs had introduced new set of facts in the plaint. The respondents had sought for amendment of description of the suit property as per the sale deed in respect of suit property. Admittedly, the sale deed has been produced while filing the suit and the petitioner as well as the other defendants have contended those documents. Therefore, the Court below came to the conclusion that the issue raised by the petitioner can be decided at the end of trial and also finding that the proposed amendment would no way prejudice the petitioner has allowed the application where I do not find any infirmity.

6.Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

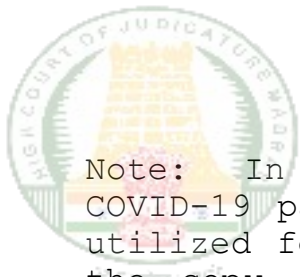
Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Principal District Munsif
Manaparai, Trichy District.

2.The Section Officer, (2 copies)
V.R.Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.B.PRAHALAD RAVI, Advocate (SR-1987[F] dated 25/01/2021)

CRP (MD) No.114 of 2020
and
CMP (MD) .No.647 of 2020
21.01.2021

VB (15.02.2021) 3P 5C