



WEB COPY

C.R.P. (MD).No.766 of 2021 and

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 13.07.2021

Pronounced on : 16.08.2021

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.R.P. (MD).No.766 of 2021 and

CMP(MD).No.4180 of 2021

1.R. Indira
2.R.Muthumari

... Petitioners / Respondents

Vs.

1.Mariammal
2.G.Seeniraj
3.G.Duraiaraj
4.G.Rajendran
5.Dhanalakshmi
6.R.Ponnuthai
7.Aathilakshmi
8.Vijayalakshmi
9.Rajalakshmi
10.Saroja
11.Kanagalakshmi
(Respondents 1, 2, 3, 5 to 11 represented through
their power agent 4th respondent G.Rajendran)
12.R.Muthammal
R.Muniyasamy (died)
13.R. Thangapandi
14.R. Jeyapandi
15.R.Packiaraj
16.V.Rajamanickam(died)
17.Rajarajeswari
18.Karthick
19.Minor Rajeswari
20.Minor Rajammal
(19 and 20th respondents are represented through their
mother and natural guardian Rajarajeswari)
21.B. Ramachandran
22.K.Muthukumar

... Respondents 1 to 11/plaintiffs
Respondents 12 to 22/defendants

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and decreetal order passed in I.A.No.1 of 2020 in O.S.No.153 of 2017 on the file of the District Munsif Court, Sivakasi, dated 04.02.2021.

For Petitioners : Mr.Ashok kumar
For respondents : Mr.S.kadarkarai



O R D E R

The Civil Revision is directed against the order passed in I.A.No.1 of 2020 in O.S.No.153 of 2017, dated 04.02.2021 on the file of the District Munsif Court, Sivakasi, allowing the amendment petition filed under Order 6 Rule 17 and 18 CPC.

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2.The revision petitioners are the proposed defendants 12 and 13 and the respondents / plaintiffs have filed the suit in O.S.No.153 of 2017 claiming the reliefs of declaration that the suit property belongs to the plaintiffs and for declaring that the settlement deed dated 13.10.2019 executed by the first defendant in favour of the defendants 2 to 5 and the sale deed dated 20.11.09 executed by the defendants 2 to 5 to the 6th defendant are legally invalid and for permanent injunction restraining the defendants and their men from any manner interfering with the peaceful possession and enjoyment of the suit property.

3.It is not is dispute that since the summons sent to the defendants 2 and 6 were returned as dead, the plaintiffs have filed an application in I.A.No. 106 of 2018 to implead the respondents 8 to 11 as the legal representatives of the deceased 2nd defendant and the respondents 12 and 13 as the legal representatives of the deceased 6th defendant and that during the pendency of the petition in I.A.No. 106 of 2018, the proposed respondents 12 and 13 have executed a sale deed in favour of the respondents 14 and 15, that the plaintiffs have then filed another petition in I.A.No.638 of 2019 for impleading the proposed respondents 14 and 15 as the defendants 14 and 15 and that both the petitions in I.A.Nos. 106 of 2018 and I.A.No.638 of 2019, after enquiry, were ordered to be allowed. The plaintiffs, claiming to be the consequential amendment petition, have filed the present petition under Order 6 Rule 17 CPC in I.A.No.1 of 2020 and that the learned District Munsif has passed the impugned order on 04.02.2021 allowing the proposed amendment. Aggrieved by the said order, the proposed defendants 12 and 13 have come forward with the present revision.

4.The learned counsel for the revision petitioners would submit that the proposed amendments are not the consequential amendments, that the petitioners have not at all become the parties to the suit and as such, they are not having any knowledge about the prayer sought for by the plaintiffs, that the plaint copy itself was not served on the petitioners, that the learned trial Judge has passed a non speaking order and that the plaintiffs have been attempting to fill up the lacuna and that too before the petitioners are taken up as the defendants.

5.It is necessary to refer the decision of this Court reported in ***O.P.Ravindran Vs. M.S. Subbaiah and others [2021 (3) CTC 274]***. relied on by the counsel for the respondents



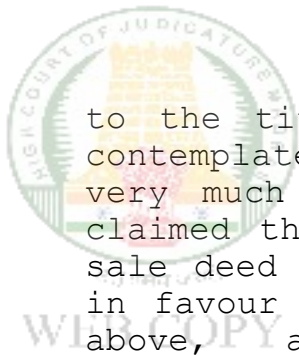
"14.From the above reading, it is clear that the parties to the suit can be permitted to bring forward the amendment pleadings at any stage for the purpose of determining the real question of controversy between the parties. The Courts have to be liberal in accepting the same, if the same is made prior to the commencement of the trial and in that event of post-trial, the Court has to arrive at a conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial. Therefore, the rejection of the application on the ground that the application was filed after the commencement of trial, without any proper reason, is unsustainable.

15.The object of the rule is that Courts should try the merits of the case that come before them and should, consequently, allow all amendments that may be necessary for determining the real question in controversy between the parties provided it does not cause injustice or prejudice to the other side. The main purpose of allowing the amendments is to minimise the litigation and the plea that the relief sought by way of amendment was barred by time is to be considered in the light of the facts and circumstances of each case. As far as this case is concerned, as stated earlier the Court below has not considered the very point of multiplicity of litigation and the petitioner's entitlement for filing a fresh suit. If the Court below applied its mind, it would have come to the logical conclusion that the amendment should be allowed due to the reason atleast to avoid the multiplicity of the legal proceedings.

16.As far as the post-trial amendment is concerned, this Court is of the view that the parties can be permitted to amend their pleadings at any stage with the leave of the Court provided the amendment proposed is bonafide, relevant and necessary for deciding the rights of the parties involved in the lis."

6.In the case on hand, after allowing the impleading application, they have filed the present application for amendment and since the proposed respondents 12 and 13 have allegedly sold their property on 09.07.2019 the plaintiffs have sought to claim the relief of declaration that the sale deed is legally invalid along with other amendments.

7.As rightly contended by the learned counsel for the respondents 1 to 5, since the suit is for declaration with respect



to the title of the suit property, the doctrine of *lis pendans* contemplated under Section 52 of the Transfer of the Property Act is very much applicable to the plaintiffs and that they have also claimed the relief of declaration challenging the validity of the sale deed allegedly executed by the proposed respondents 12 and 13 in favour of the proposed respondents 14 and 15. Considering the above, as rightly observed by the trial Court, the proposed amendments can only be considered as consequential in nature in view of the orders passed in impleading petitions filed in I.A.No.106 of 2018 and I.A.No.638 of 2019.

8.No doubt, as rightly pointed out by the revision petitioners side, the revision petitioners are not parties to the suit as of now, as the impleading petitions alone were allowed. As rightly pointed by the respondents side, the revision petitioners have not specifically disputed the alleged sale made in favour of the respondents 14 and 15 and more particularly during the pendency of the impleading petition in I.A.No.106 of 2018, seeking impleadment of the proposed respondents 12 and 13. As rightly contended by the respondents side, the petitioners have not raised any other valid or serious objections to the proposed amendments. Hence, the decision of the trial Court in allowing the proposed amendments cannot be found fault with. Consequently, this court decides that the revision is devoid of merits and the same is liable to be dismissed.

9.In the result, the Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1.The District Munsif, Sivakasi.

+1 CC to M/s.M.ASHOKKUMAR, Advocate (SR-26481[F] dated 17/08/2021)

+1 CC to M/s.S.KADARKARAI, Advocate (SR-26673[F] dated 18/08/2021)

Pre-delivery order made in
C.R.P. (MD).No.766 of 2021 and
CMP(MD).No.4180 of 2021
16.08.2021