



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 01.07.2021

PRONOUNCED ON : 15 .07.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CRP(MD)No.952 of 2014

MP(MD) .No.1 of 2014

(Through Video Conferencing)

Devaraj

Petitioner/Respondent/Plaintiff

Vs

1.Selvaraj

2.Jeyaraj

3.Thangaraj

Respondents/Petitioner/Defendant

Prayer:- This Civil Revision Petition has been filed, under article 227 of Consitution of india, against the fair and final order dated, 06.09.2013, made in IA.No.135 of 2013 in OS.No.127 of 2011, by the Additional District Munsif, Sankarankoil.

For Petitioner : Mr.S.Kadarkarai

For Respondent : Mr.F.X.Eugene

ORDER

- 1.This Civil Revision Petition has been filed, against the fair and final order dated, 06.09.2013, made in IA.No.135 of 2013 in OS.No.127 of 2011, by the Additional District Munsif, Sankarankoil.
- 2.The facts of the case are that the Defendant is the Petitioner and the Plaintiffs are the Respondents. The suit was filed for declaration of title and permanent injunction. The Plaintiffs had filed the above application, seeking for amendment of the plaint as stated therein and it was resisted by way of counter. The said amendment was allowed by the impugned order and hence, this Civil Revision Petition has been filed.
- 3.The learned counsel for the Petitioner has submitted that only to fill up the lacuna, the present amendment is sought for and that if the amendment of the plaint is allowed, it would change the nature of the suit and that since the earlier attempt of the Respondents to withdraw the suit with a liberty to file a fresh suit was negatived, the present Civil Revision Petition has been filed in order to defeat the right of the Petitioner and in such circumstances, the impugned order is liable to be set aside, by allowing this Civil Revision Petition.
- 4.The learned counsel for the Respondents has submitted that by oversight, the plaint averments in paragraph 5 and the description of the property regarding survey number and extent have been



wrongly mentioned and it is neither willful nor wanton and hence, it needs to be amended and that by allowing the amendment as sought for in the application, the nature and character of the suit will not change and hence, the amendment was rightly allowed by the court below.

5. This court heard the learned counsel on either side and considered their submissions and also carefully perused the materials placed on record.

6. An amendment, necessary for the purpose of determining the real questions in controversy between the parties, should be allowed, if it does not change the basic nature of the suit. In this case, the suit was filed for declaration of title and permanent injunction. The Plaintiffs have sought to amend the plaint, by amending the plaint averments in paragraph 5 in respect of persons, in whose favour patta was issued and the survey numbers in the Schedule of property. The trial is not yet commenced. By such amendment, no prejudice will be caused to the other side. Considering the said aspects, in order to avoid multiplicity of proceedings, the amendment was rightly allowed by the court below, by the impugned order, which warrants no interference by this Court.

7. In fine, this Civil Revision Petition is dismissed. No costs. Consequently, the connected MP is closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

Srcm

To

1. The Additional District Munsif, Sankarankoil

+1 CC to M/s.S.KADARKARAI, Advocate (SR-22647[F] dated 15/07/2021)

+1 CC to M/s.F.X.EUGENE, Advocate (SR-22823[F] dated 16/07/2021)

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