



C.R.P(PD)No.16 of 2020
and CMP.No.103 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(PD)No.16 of 2020

and

CMP.No.103 of 2020

Govindhammal

..Petitioner

Vs.

1.M.Madhiyazhagan

2.M.Raja

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair order dated 18.11.2019 made in IA.No.3 of 2019 in OS.No.153 of 2015 on the file of the District Munsif Court, Sankari.

For Petitioner : Mr.R.Marudhachalamurthy

For Respondents : Mr.N.Manokaran

ORDER

The plaintiff, whose request for amendment of the plaint was rejected by the Trial Court is on revision.



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2.The suit in OS.No.153 of 2015 was filed by the plaintiff, seeking a declaration that the sale deed dated 01.12.2012 executed by her in favour of the defendant is null and void and for consequential injunction. A declaration that the sale deed dated 28.02.2014 executed by the 1st defendant in favour of the 2nd defendant is null and void was also sought for. According to the plaintiff, there was no intention to convey the suit property to the defendant. The sale deed dated 05.12.2012 was executed as a security for a loan transaction and therefore, it was followed by a reconveyance agreement dated 05.12.2012 itself.

3.The defendant resisting the suit contending that the resale agreement has been created and the original transaction was only a sale simplicitor and nothing else. Pending suit, the plaintiff has come up with the instant application seeking amendment of the plaint to give up prayers 'A' and 'B' namely, the prayers relating to declaration that the sale deeds dated 01.12.2012 and 28.02.2014 are invalid and to seek a decree for permanent injunction restraining the defendants from interfering with her possession



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except under due process of law. This was resisted contending that the very nature of the suit is altered and the cause of action, for the injunctive relief is wholly different from the cause of action that was projected for the main relief of cancellation of the sale deeds. Accepting the defence, the learned judge dismissed the application.

4.Mr.R.Mardhachalamurthy, learned counsel appearing for the petitioner would vehemently contend that all that the plaintiff is seeking is to scale down the relief prayed for and it will not alter the nature of the suit. I am unable to agree. The plaintiff who has come to Court with a specific case that the sale deeds invalid, cannot now withdraw the said case and seek a decree for injunction simplicitor. Therefore, deletion of prayers 'A' and 'B' and introduction of prayer for relief of injunction, in my opinion, would definitely change the character of the suit.

5.The Trial Court has rightly dismissed the application for amendment on the ground that it changes the entire character of the suit and therefore, it cannot be allowed. I therefore, do not see any reason to



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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.

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Index:No

Internet:Yes

Speaking

To-

1. The District Munsif Court,
Sankari.



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R.SUBRAMANIAN, J.

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