



C.R.P(PD).No.4008 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	:	28.03.2022
PRONOUNCED ON	:	12.08.2022

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.(PD) No.4008 of 2015
and M.P. No.1 of 2015

V.Govindarajan

.. Petitioner

Versus

1) Suseela (Died)

2) V.Sundarajan

3) V.Sukumaran

.. Respondents/ L.R.s
of sole respondent

4) V.Sankar

5) V. Parimala

6) V. Sarala

7) V.Velankanni

** RR 2 to 7 brought on record as LRs of the deceased sole respondent viz., Mrs.Suseela vide court order dated 19/11/2020 made in C.M.Ps16381, 16382 & 16853/2019 in C.R.P.No.4008/2015.*

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order of the learned District Munsif, Thiruvallur dated 26.06.2015 in I.A.No.454 of 2015 in O.S.No.427 of 2005.



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For Petitioner : Mr.K.V.Babu

For Respondents : No Appearance

ORDER

Aggrieved against the order of dismissal made in I.A.No.454 of 2015 on the file of learned District Munsif, Thiruvallur, dated 26.06.2015, the petitioner has preferred the present revision.

2. Facts barely needed for the disposal of the present Civil Revision Petition are as follows:-

2.1. Suit in O.S.No.427 of 2005 was filed by the plaintiff/first respondent herein for cancelling and setting aside the sale deed dated 03.04.2003, registered as document No.1906/03 at SRO, Thiruvallur, granting permanent injunction restraining the defendant, his men, agents, servants, relatives and any other persons claiming or acting under the defendant from interfering with the plaintiff's peaceful possession and enjoyment of the suit property and other reliefs.

2.2. Meanwhile, the defendant/petitioner herein filed an application in I.A.No.454 of 2015 under Order VI Rule 17 of the Civil Procedure Code,



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seeking permission to amend the written statement filed by him. The learned Judge, after considering the submissions and documents, had dismissed the application. Aggrieved against such dismissal of the application, the defendant/petitioner herein has approached this Court with the present revision.

3. According to the learned counsel for the revision petitioner, during the preparation of trial, his client has brought to his notice about the omission of an important line in the written statement, more specifically in page no.2, paragraph no.5 of written statement, in the 7th line which has been ended as, '*as a witness*' in an abrupt manner. Instead, the same should continue as, "*and also attested the unregistered sale agreement document dated 10.02.2003 as a witness in the endorsement, which is a prior agreement and preceding the sale deed dated 3.04.2003 entered between the plaintiff and this defendant herein*". Therefore, the learned counsel pleaded that it is just and necessary to amend the written statement in the interest of justice and to convey the correct meaning. Therefore, he prayed for allowing the present revision by setting aside the order of the lower Court made in I.A.No.454 of 2015 on the file of District Munsif, Thiruvallur, dated 26.06.2015, thereby allowing to amend the written statement.



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4. Per contra, the learned counsel for the respondents would submit that the petitioner, by way of seeking amendment of written statement through the application in I.A.No.454 of 2015, has introduced a new case and new cause of action, which is barred by Section 58 of the schedule of Limitation Act. Moreover, the alleged agreement dated 10.02.2003 is not related to the suit property and therefore, prayed for the dismissal of the revision.

5. Heard the learned counsel for the petitioner as well as for the respondents and perused the materials placed before this Court.

6. A perusal of the order passed by the learned Judge would go to show that the learned Judge, after considering the submissions made by both sides and the documents exhibited, pointed out that the application has been filed seeking amendment to be carried out in the written submissions. While the suit has been filed praying to cancel and set aside the sale deed dated 03.04.2003 registered in favour of the defendant, in the written submission filed by the defendant, it has been accepted that the plaintiff has executed the sale deed in which plaintiff's son viz., Sugumaran signed the said document as witness. However, now come with a new plea that plaintiff's son has only signed as a



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witness in the notes of the sale deed dated 10.02.2003 and the said fact has been inadvertently omitted to mention in the written submission. The learned Judge found that such a plea cannot be accepted by the Court.

7. The learned Judge further pointed out that such a plea cannot be accepted for the reason that in the written submission, the defendant agreed that plaintiff's son was very much present at the time of execution of sale deed and he has also signed as a witness.

8. It is further pointed out by the learned Judge that when the suit has been filed in the year 2005, the defendant has not brought to the notice of the Court such facts. But thereafter, coming with I.A. raising the plea that there has been an unregistered sale agreement in which the plaintiff's son has signed as a witness, hence, the same cannot be accepted. The learned Judge further viewed that if the application for amendment has been allowed, it would change the nature of suit. It has been pointed out by the learned Judge that initially the defendant in the written submission accepted the fact that the plaintiff's son has signed as a witness in the sale deed, but, thereafter, wanted to amend it that he has signed only in the sale agreement as a witness, which would definitely cause prejudice and hardship to the plaintiff. In such view, the



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learned Judge dismissed the I.A.

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9. The above observation of the learned Judge in the order passed in I.A.No.454 of 2015 cannot be found fault with and accordingly, it requires no interference by this court. In the result, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

12.08.2022

Index : Yes / No

Internet : Yes

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To:

- 1) The District Munsif, Thiruvallur,
- 2) The Section Officer,
V.R.Section,
High Court of Madras.



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J.NISHA BANU, J.,

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Order made in
C.R.P.(PD) No.4008 of 2015

Dated:
12.08.2022