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C.R.P(PD).No.1975 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P.(PD).No.1975 of 2022
and C.M.P.Nos.10060 & 10061 of 2022

1.E.Elango
2.P.Krishnan
3.P.Sankar

... Petitioners

..Vs..

1.Gurusamy
2.Jayalakshemi
3.Boopathy

... Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and decretal order dated 28.02.2022 made in I.A.No.8 of 2021 in O.S.No.149 of 2016 passed by the learned District Munsif, Thiruchengode, Namakkal District.

For Petitioners : Mr.K.R.Vijayakumar

For Respondents : Mrs.S.P.Nirmala Parameswari for
Mr.D.Shivakumaran



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ORDER

This Civil Revision Petition has been preferred challenging the order of the learned District Munsif, Thiruchengode, Namakkal District dated 28.02.2022 made in I.A.No.8 of 2021 in O.S.No.149 of 2016.

2.The revision petitioners are the plaintiffs who have filed the suit against the respondents/defendants for the relief of permanent injunction. After the written statement and additional written statement were filed by the defendants, they have filed an Interlocutory Application in I.A.No.8 of 2021 to amend the pleadings and the same was allowed on condition. Aggrieved over that, the plaintiffs/petitioners have filed this revision petition.

3.The learned counsel for the petitioners submitted that after the trial was over, the petition has been filed just to get over the admissions given by the defendants; in fact, an earlier petition filed for amendment was withdrawn and on the same day another petition was filed for seeking the same relief; the learned trial Judge has not recorded any



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finding as to whether the amendment now sought to be made in the written statement could not be raised by him in his written statement despite exercising due diligence and hence the order is liable to be reversed.

4.The learned counsel for the respondents submitted that a minor clerical error in which the word 'Thadam' has been typed instead of 'Santhu' and the amendment petition has been filed only to correct the same; it is true that the petition filed to amend the written statement was withdrawn, but it is for the purpose of making the particulars of amendment complete; no prejudice would be caused to the plaintiffs; the learned trial Judge has rightly allowed the petition.

5.The records would show that the revision petitioners have filed the suit against the defendants for permanent injunction and the allegation is that they have right over the alleged path way. The respondents filed the written statement and in the written statement, they



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denied the existence of path way. However, they chose to amend the word 'Thadam' into 'Santhu' (lane). With whatever name the suit pathway is called, the fact remains that the plaintiffs who has filed the suit should prove its existence and his eastmentary right over the same.

6. If the trial Court comes to the conclusion that the plaintiffs have got the right to use the suit pathway; the improper particulars of the property would only cause complications while executing the decree.

7. In fact, in paragraph No.8 of the plaint itself, the plaintiffs himself have indicated that the suit pathway as suit 'lane'. It is further alleged that the plaintiffs and their men were using the suit lane for plastering and white washing the Southern side wall of 'A' Schedule building. Under such circumstances only, the defendants have filed the amendment petition to amend the word 'Thadam' as 'Santhu' (lane). Since the above amendment does not change the defence of the defendants and does not cause any prejudice to the plaintiffs as well, the learned trial



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Judge is right in allowing the same. Hence I find no reason for interference.

8.Hence, this Civil Revision Petition is dismissed and the order of the learned District Munsif, Thiruchengode, Namakkal District dated 28.02.2022 made in I.A.No.8 of 2021 in O.S.No.149 of 2016, is hereby confirmed. No costs. Consequently, connected Miscellaneous Petitions are closed.

27.07.2022

vkr

Index:Yes No

Speaking Order:Yes/No

Note: Issue order copy on 28.07.2022

To

- 1.The District Munsif,
Thiruchengode, Namakkal District.
- 2.The Section Officer,
VR Section, Madras High Court,
Chennai.

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R.N.MANJULA,J.

Vkr

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