



C.R.P.No.2900 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	:	24.06.2022
PRONOUNCED ON	:	08.11.2022

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.No.2900 of 2014
and M.P.No.1 of 2014

Kumari ... Petitioner/6th respondent

VS.

1) Jeevarathinammal ... Respondent / Plaintiff
2) Krishnammal (Died)
3) Adhilakshmi
4) Rajaveni
5) Dhanasekari (Minor) (died)
Rep. By her guardian R3 Adhilakshmi
6) Karthikai Mala
7) Kousalya
8) Amsa
9) Kamalavenu ... Respondents

* RR 6 to 9 brought on record as legal heirs of R2 as per memo dated 20.10.2021 and vide court order dated 20.10.2021.

* RR 3 & 4 – given up

PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code against the fair and decretal order dated 30.04.2014 in I.A.No.550 of 2010 in O.S.No.299 of 1980 on the file of Additional Sub Judge, Pondicherry.



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For Petitioner : Mr.M.Rajasekar

For R-1 : Mr.R.Thiagarajan

For RR 6 to 9 : M/s.Kamatchi

* RR 2 & 5 'Died' & RR 3 & 4 'Given up'

ORDER

This Civil Revision Petition has been filed challenging the order dated 30.04.2014 made in I.A.No.550 of 2010 in O.S.No.299 of 1980 on the file of Additional Sub-Judge, Pondicherry.

2. The brief facts that are required for the disposal of the present civil revision petition are as follows:-

The first respondent herein is the plaintiff and she had filed a suit in O.S.No.299 of 1980 on the file of the 1st Additional Sub-Judge, Pondicherry, for specific performance of contract of sale in respect of the schedule mentioned property. The suit was decreed on 24.09.1983. Subsequently, the plaintiff filed an application in I.A.No.550 of 2010 under Sections 152 & 153 of the Civil Procedure Code, seeking for amending the decree passed in O.S.No.299 of 1980. The Court below allowed the said application



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vide order, dated 30.04.2014. Aggrieved by the said order, the petitioner/sixth respondent therein, who is one of the legal heirs of the deceased third defendant has filed the present revision.

3. The learned counsel for the petitioner would submit that the decree was for execution of the sale deed. The sale deed has been executed through process of Court and therefore, the Court below has become *functus officio* and the amendment application itself is not maintainable and hence, the order amending the decree passed by the Court below, is liable to be set aside.

4. Per contra, the learned counsel for the first respondent/plaintiff would contend that the delivery of property is incidental to the relief for specific performance on contract. Therefore, even without a decree for delivery of the property, the first respondent is entitled to get delivery based on the sale deed which was executed through the Court below. However, the decree cannot be executed as the defendants and third party have raised objections stating that there is no decree for delivery of property. Hence, she filed the amendment application.



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5. The learned counsel for the first respondent would further submit that the Court below, placed reliance on the judgment made in ***Babu Lal vs. Hazari Lal Kishori Lal*** reported in **AIR (0) 1982 (SC) 818**, wherein it has been held that, the Legislature has given ample power to the Court to allow amendment of the plaint at any stage. After considering all these facts and circumstances, the Court below has rightly allowed application for amendment of decree and the same needs no interference and hence, this Civil Revision Petition is liable to be dismissed.

6. I have heard the submissions made by the learned counsel appearing on either side and also perused the materials placed before this Court.

7. It is to be noted that the first respondent filed two applications in I.A.Nos.550 and 551 of 2010, out of which, I.A.No.550 of 2010 is filed for amendment of the plaint to include the relief of delivery of vacant possession and I.A.No.551 of 2010 is filed for amendment of the decree, which was allowed by the Court below. Now, the revision petitioner has challenged the order amending the decree. Here is a case that a suit for specific performance has been decreed and possession follows. The learned Judge by relying on the judgment reported supra has rightly allowed the application which does not require interference from this Court.



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8. For the foregoing reasons, the Civil Revision Petition stands dismissed. No Costs. Consequently connected miscellaneous petition is closed.

08.11.2022

sts/pm

Index :Yes/No

Internet:Yes/No

To:

- 1.The Additional Sub Judge, Pondicherry.
- 2.The Section Officer, V.R.Section, High Court of Madras.

J.NISHA BANU, J.,



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Order made in
C.R.P.No.2900 of 2014

Dated:
08.11.2022