



A.No.4778 of 2021
in
C.S.No.92 of 2021

WEB COPY

P.VELMURUGAN.,J

The applicant is the plaintiff who has filed the suit for declaration and also for partition.

2. This application has been filed to permit the applicant/plaintiff to amend the plaint by including Para 10(a) 10(b) in the plaint, stating the reason in the accompanying affidavit that due to inadvertence, certain facts could not be incorporated in the plaint.

3. Learned counsel for the respondents/defendants vehemently contended that the applicant/plaintiff had already been filed yet another application in A.No.2859 of 2021 for the very same reason and this Court also generously allowed that application on 18.08.2021. Subsequently, the applicant has filed this application stating the very same reason. This itself shows the conduct of the party. Hence, this application has to be rejected at the threshold.



4. Learned counsel for the applicant/plaintiff submitted that he has filed this application well in advance before the Registry and the Registry had returned the application for compliance of corrections mentioned therein. Subsequently, the earlier application was allowed and then the matter was referred before the learned Master. Only when the matter was listed before the Master, the plaintiff came to know that this application was not numbered. Therefore, they brought the same for numbering. Hence the application may be allowed.

5. Heard both sides and perused the materials available on record.

6. Admittedly, the plaintiff is the applicant and he has filed the suit for declaration and also for partition. He earlier filed Application No.2859 of 2021 for the same reason and that was allowed by this Court on 18.08.2021. Amendment was also carried out. Subsequently, he filed the present application. Learned counsel for the respondents/defendants vehemently objected the same.

7. On a perusal of the present amendment sought for by the plaintiff, it is



seen that it is only related to the cancellation of the document. Therefore, no prejudice would be caused to the defendants if the present application is allowed. It is a pre-trial amendment. Therefore, the respondents/defendants can file additional written statement, if any, after the amendment is allowed and as stated above, no prejudice would be caused to them.

8. However, on seeing the conduct of the applicant/plaintiff, it is noted that he has filed the application after application. The suit is filed in the year 2021. After completion of pleadings, the matter was referred to before the learned Master for recording evidence. At this juncture, once again the matter has been listed before this Court, to deal with the present amendment application. In order to compensate the inconvenience caused to the respondents/defendants, this application has to be allowed on payment of costs. Accordingly, this application is allowed with costs of Rs.1,00,000/- (Rupees One lakh only) on or before 16.03.2022, payable to the defendants, failing which, this application shall stand automatically dismissed, without further reference of this Court.

9. For reporting compliance, list the matter on 17.03.2022.

14.02.2022

mfa



WEB COPY



P.VELMURUGAN.,J

mfa

A.No.4778 of 2021
in
C.S.No.92 of 2021

14.02.2022