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C.R.P. No. 1067 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2022

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No. 1067 of 2017

and

C.M.P. No. 5122 of 2017

1 A.Rajarathinam
S/o M.R.Anandh

2 M.Meena
W/o. Manickam

3 G.Chandrasekar,
S/o Gurunathan

4 P.Mekala,
W/o N.Perumal

... Petitioners

Vs

1 K.Mohanraju
S/o Karuppanna Gounder

2 P.T.Sashikumar
S/o Late Thulasimani

3 B.Shanmugapriya
W/o. Balasubramanian

4 P.Devarajan
S/o Late Perumal Gounder

1/6



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5 S.Selvamani
W/o. Late Sundaramoorthy

6 A.Kailasam
S/o. Appichi Gounder

... Respondents

PRAYER : Civil Revision Petition filed under Art. 227 of Constitution of India, praying to set aside the fair and final order dated 25.11.2016 made in I.A.No.1147 of 2016 in O.S.No. 82 of 2012 on the file of learned Principal District Munsif, Erode.

For Petitioners : Mr.A.Sundaravadanan for
Mr. C.E. Pratap

For Respondents : No appearance for R1 & R3
R4 to R6 – given up

ORDER

The Revision Petitioners herein are the defendants 4 to 7 in the suit in O.S.No. 83 of 2012 on the file of Principal District Munsif, Erode filed by the respondents 1 to 3/plaintiffs for the relief of permanent injunction restraining the defendants from obliterating with cart track in any manner.



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2. At the time of filing the suit, it was filed only against the cart track in the suit schedule mentioned property in S.F.No.175/1. Subsequently, they have filed another application for impleading other parties as defendants. Thereafter, they have filed another application to amend the prayer for declaration and third time, they have filed another application to amend the description of property in I.A.No.1147 of 2016 on the file of Principal District Munsif, Erode under Order 6 Rule 17 of C.P.C. praying to amend the schedule of property by including S.F.No.175/3 contending that it is also forming part and parcel of the suit cart track. Objections made by the defendants stating that to drag on the proceedings, without any materials, the plaintiff filed the said application. On considering submissions of both sides, the trial court allowed the application. Challenging the said findings, the defendants 4 to 7 have filed the present Civil Revision Petition.

3. The learned counsel appearing for Revision Petitioners submitted that the trial court failed to take note of the fact that the plaintiffs repeatedly filing applications for amendment without any basic document and the alleged Survey No.175/1 and 175/3 said to be a cart track, but at the time of



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initial state, they ought to have filed a suit with a proper survey number, without which, the alleged amendment cannot be permitted, because the suit is at the stage of trial. Hence, they prayed to set aside the order passed by the learned trial judge.

4. On considering the submissions of both sides and the relief claimed in the suit, it reveals that at the earlier point, the plaintiffs filed a suit in O.S.No. 83 of 2012 against a cart track and subsequently, they came to know another survey number, which is forming part and parcel of Survey No.175/1 and 3 and the field map enclosed along with the typed set of papers prima facie establish that fact. Therefore, if the plaintiffs seeking relief in respect of permanent injunction, the correct particulars is to be given, otherwise, the parties will be put into much hardship. Without prejudice to the objections raised by the revision petitioners and the reasons assigned by the trial court is confirmed.

5. In the result, this Civil Revision Petition is dismissed and the order passed by the learned trial judge in I.A.No. 1147 of 2016 is confirmed. The plaintiff is directed to cooperate with the trial without filing unnecessary applications. However, since the suit is pending from the year of 2012, the



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trial court is directed to proceed with the trial and dispose the case within a period of six months from the date of receipt of copy of this order. No costs. Consequently, the connected Civil Miscellaneous Petition is also closed.

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Index : Yes/No
Internet: Yes/No
Speaking/Non Speaking order
rpp

To

Principal District Munsif,
Erode.



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T.V.THAMILSELVI, J.

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