



C.R.P.No.3374 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

C.R.P.No.3374 of 2022
and C.M.P.No.17941 of 2022

Dora Suseela

... Petitioner

Vs.

1. Sesu Rajakili

The Rev. Father Mathew Vettical (died)

2. F.Mariya Chandran

Rep. by his Power Agent

Sesu Rajakili

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, pleaded to set aside the fair and decreetal order dated 12.09.2022 made in I.A.No.1 of 2022 in O.S.No.412 of 2004 on the file of the Principal District Munsif Court, Alandur.

For Petitioner : Mr.N.Manoharan

For Respondents : No Appearance

ORDER

This Civil Revision Petition has been filed challenging the order passed by the Court below, dismissing the petition filed by revision petitioner seeking amendment of the plaint.



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2. The petitioner herein filed a suit for declaration of title and recovery of possession in O.S.No.412 of 2004 on the file of the Principal District Munsif, Alandur. According to the petitioner, the suit was originally filed in the year 1999 before the Sub Court, Poonamallee and the same was transferred to the Principal District Munsif, Alandur and renumbered as O.S.No.412 of 2004.

3. The trial in the suit is already over and the matter is posted for arguments. At that stage the petitioner filed an amendment application seeking to substitute plaint plan with a new plan which was drawn in accordance with the plan filed by the Advocate Commissioner. In the affidavit filed in support of amendment application, it was stated by the petitioner that at the time of preparing the plaint plan error had occurred and the same was found only when Advocate Commissioner's report and the plan were marked before the Court below on 04.08.2022. It was stated on acquiring knowledge about the error in the plaint plan, the petitioner was advised to file present amendment application seeking substitution of the plaint plan with the new plan drawn by him in accordance with the Advocate Commissioner's plan.



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4. The said application was resisted by the respondent by filing a counter on the ground that by substituting the plaint plan, the revision petitioner is trying to change the suit property. It was also stated in the counter that the suit is of the year 1999 and the same has been kept pending without any progress for the period of past 24 years. The petitioner herein based on the pleadings available on record participated in the trial and after completion of the trial, now he wants to amend the plaint and the same is not permissible.

5. The Court below after considering the rival submissions, dismissed the amendment application. In the impugned order the Court below stated that Advocate Commissioner's report and plan were filed as early as 26.07.1999 and therefore, the reasoning given by the revision petitioner that he acquired the knowledge about the mistake in the plaint plan only in the year 2022 cannot be accepted. The learned counsel for the petitioner submitted that in the plaint plan 'L' shaped suit 'A' and 'B' schedule properties were given in inverted manner and the same has to be corrected in accordance with the Commissioner's plan. It is always open to the petitioner to argue before the Court below, that the plan submitted by the Advocate Commissioner is correct and in the event of decreeing the suit, the Court can pass a decree based on the Advocate Commissioner's plan by treating the same as part



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S.SOUNTHAR, J.

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and parcel of the decree. Therefore amendment sought for by the revision petitioner is not absolutely necessary to decide the controversy involved in the case. Consequently finding no merits in the Civil Revision Petition, the same is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

20.10.2022

Index: Yes/ No

Speaking Order / Non-Speaking Order

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To

The Principal District Munsif Court
Alandur.

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