



C.M.P.No.18451 of 2022
in C.R.P.(PD)No.2300 of 2018

WEB C **V.M.VELUMANI, J.**

The petitioner is 1st defendant in O.S.No.294 of 2013 on the file of the District Munsif Court, Madurantakam, Kancheepuram District. The petitioner filed I.A.No.2324 of 2017 in the said suit for rejection of plaint stating that suit filed is abuse of process of law and barred by law. The said I.A. was dismissed by the order dated 07.04.2018. The petitioner filed C.R.P.(PD).No.2300 of 2018 challenging the said order of dismissal. While the said C.R.P was pending, O.S.No.294 of 2013 was transferred from the file of the District Munsif Court, Madurantakam to the file of the Judicial Magistrate-cum-District Munsif Court, Cheyyur and re-numbered as O.S.No.54 of 2020. C.R.P.(PD).No.2300 of 2018 was taken up along with C.R.P.(PD).No.4277 of 2017 filed by respondents 1 to 5.

2.At the time of hearing of both the C.R.Ps, both the learned Senior Counsel appearing for the petitioner as well as the learned counsel appearing for the respondents 1 to 5 brought to the notice of this Court about the transfer of O.S.No.294 of 2013 filed for declaration and permanent injunction and O.S.No.150 of 2013 filed for permanent injunction by respondents 1 to 5 to the file of the Judicial Magistrate-cum-District Munsif Court, Cheyyur and re-numbered as O.S.Nos.54 of 2013 and 48 of 2013 respectively. Considering the arguments of



the learned Senior Counsel appearing for the petitioner as well as the respondents 1 to 5, this Court by the order dated 23.12.2021, allowed C.R.P.(PD).No.2300 of 2018, setting aside the order dated 07.04.2018 passed in I.A.No.2324 of 2017 in O.S.No.294 of 2013 and dismissed C.R.P.(PD).No.4277 of 2017 filed challenging the order dated 10.08.2017 passed in I.A.No.1126 of 2017 to grant permission to the petitioners therein/respondents 1 to 5 herein to amend the petition made in I.A.No.260 of 2017 in I.A.No.1444 of 2013 in O.S.No.294 of 2013.

3.Taking into consideration the arguments of learned Senior Counsel appearing for the petitioner and learned counsel appearing for the respondents 1 to 5, in the order dated 23.12.2021, this Court mentioned that O.S.Nos.294 and 150 of 2013 were transferred to the file of the Judicial Magistrate-cum-District Munsif Court, Cheyyar and re-numbered as O.S.Nos.54 and 48 of 2013.

4.At the request of the learned counsel appearing for the respondents 1 to 5, C.R.P.(PD).No.2300 of 2018 was posted under the caption “for being mentioned” on 18.02.2022. The learned counsel appearing for respondents 1 to 5 submitted that the suits in O.S.Nos.294 and 150 of 2013 were transferred to the file of the Judicial Magistrate-cum-District Munsif Court, Cheyyur and not 'Cheyyar'.

5.The learned Senior Counsel appearing for the petitioner also submitted that



suits were transferred to 'Cheyyur' and not to 'Cheyyar' and they have wrongly mentioned at the time of arguments that suits were transferred to the Judicial Magistrate-cum-District Munsif Court, Cheyyar.

6.Considering the said submissions of both the learned Senior Counsel appearing for petitioner as well as the learned counsel appearing for respondents 1 to 5, this Court by the order dated 18.02.2022, amended the order of this Court dated 23.12.2021 made in C.R.P.(PD).No.2300 of 2018 at paragraph Nos.28 & 29 as follows:

“28. It is submitted that both the suits were transferred to Judicial Magistrate cum District Court Munsif at Cheyyur and O.S.No.150 of 2013 is re-numbered as O.S.No.48 of 2013 and O.S.No.294 of 2013 is re-numbered as O.S.No.54 of 2013.

29. For the reasons stated, I.A.No.2324 of 2017 in O.S.No.294 of 2013 is allowed and plaint in O.S.No.294 of 2013, now re-numbered as O.S.No.54 of 2013 on the file of the Judicial Magistrate -cum-District Munsif Court, Cheyyur is rejected.”

7.Now, the petitioner has come out with the present petition stating that suits



in O.S.Nos.294 of 2013 and 150 of 2013 were transferred to the file of the Judicial Magistrate-cum-District Munsif Court, Cheyyur and re-numbered as O.S.Nos.54 of 2020 and 48 of 2020 and by clerical and typographical mistake it was mentioned that suits were renumbered as 'O.S.Nos.54 of 2013 and 48 of 2013' instead of 'O.S.Nos.54 of 2020 and 48 of 2020' and sought for amendment of paragraph Nos.28 and 29 of the order dated 23.12.2021 as amended by order dated 18.02.2022 passed in C.R.P.(PD).No.2300 of 2018.

8.The learned counsel appearing for the respondents 1 to 5 filed counter affidavit and submitted that respondents 1 to 5 filed S.L.P.(C).Nos.11446 & 11447 of 2022 against the order dated 23.12.2021 passed in C.R.P.(PD).Nos.2300 of 2018 and 4277 of 2017 as amended by the order of this Court dated 18.02.2022. The Hon'ble Apex Court, by the order dated 22.07.2022, passed the following order:

“Having heard learned counsel for the petitioner, we are not inclined to interfere with the impugned judgment and order passed by the High Court of Madras, except to observe that the petitioners shall be at liberty to seek amendment of O.S.No.150 of 2013, if so permissible, in accordance with law.

The Special Leave Petitions are accordingly, dismissed.”



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9.The learned counsel appearing for the respondents 1 to 5 further submitted that a memo dated 25.08.2022 was filed before the Trial Court after serving a copy to the petitioner, enclosing a copy of the Hon'ble Apex Court's order dated 22.07.2022. The learned Judicial Magistrate-cum-District Munsif, Cheyyur has taken the suit in O.S.No.54 of 2020 on its file and proceeded with the suit. The petitioner has filed this petition only to drag on the proceedings, which is pending for more than 10 years. The present petition is not maintainable as this Court has become *fungus officio* and prayed for dismissal of the Civil Miscellaneous Petition.

10.Heard the learned Senior Counsel appearing for the petitioner as well as the learned counsel appearing for the respondents 1 to 5 and perused the entire materials on record.

11.From the materials on record, it is seen that the petitioner has filed C.R.P.(PD).No.2300 of 2018, challenging the order of the learned District Munsif, Madurantakam dismissing I.A.No.2324 of 2017 in O.S.No.294 of 2013, filed for rejection of plaint in O.S.No.294 of 2013. It is not in dispute that the said suit was transferred to the Judicial Magistrate-cum-District Munsif Court, Cheyyur and re-numbered as O.S.No.54 of 2020. The learned Senior Counsel appearing for the petitioner submitted that by clerical and typographical error, the re-numbered suit



was mentioned as O.S.No.54 of 2013 instead of O.S.No.54 of 2020 and hence, sought for amendment of the year of the suit. The learned counsel appearing for the respondents 1 to 5 vehemently opposed the petition for amendment. He is not disputing that O.S.No.294 of 2013 was transferred to the file of the Judicial Magistrate-cum-District Munsif Court, Cheyyur and re-numbered as O.S.No.54 of 2020. Earlier, at the request of the learned counsel appearing for the respondents 1 to 5, this Court issued amended copy of the order replacing 'Cheyyar' as 'Cheyyur'. The said amendment was made on 18.02.2022, after the order was passed in C.R.P.(PD).No.2300 of 2017 on 23.12.2021.

12.The scope of Section 152 of C.P.C provides the power to the Court to correct clerical or arithmetical mistakes in judgments, decrees or orders or errors arising therein from any accidental slip or omission, at any time. The Court can also exercise its inherent powers under Section 151 of C.P.C and amend any clerical or arithmetical mistakes. The Court, in the facts and circumstances of the case, in the interest of justice, can amend any mistake in the judgments or orders or decrees.

13.Now the petitioner is seeking amendment of the order of the re-numbered suit as 'O.S.No.54 of 2020' instead of 'O.S.No.54 of 2013'. In the order, the year of



re-numbered suit was wrongly mentioned as 'O.S.No.54 of 2013' instead of 'O.S.No.54 of 2020', due to clerical and typographical error committed by the petitioner. In the S.L.P filed by the respondents 1 to 5, the Hon'ble Apex Court has held that the orders of this Court dated 23.12.2021 and 18.02.2022 are not interfered with and gave liberty to the respondents 1 to 5 to seek amendment in O.S.No.150 of 2013, if so permissible, in accordance with law. In view of the liberty given by the Hon'ble Apex Court to amend O.S.No.150 of 2013 and considering the above materials placed, the present Civil Miscellaneous Petition is ordered.

14. Accordingly, paragraph Nos.28 and 29 of the order of this Court dated 23.12.2021 as amended by the order dated 18.02.2022 shall read as follows:

*“28. It is submitted that both the suits were transferred to Judicial Magistrate-cum-District Court Munsif at Cheyyur and O.S.No.150 of 2013 is re-numbered as **O.S.No.48 of 2020** and O.S.No.294 of 2013 is re-numbered as **O.S.No.54 of 2020**.*

*29. For the reasons stated, I.A.No.2324 of 2017 in O.S.No.294 of 2013 is allowed and plaint in O.S.No.294 of 2013, now re-numbered as **O.S.No.54 of 2020** on the file of the Judicial Magistrate-cum-District Munsif Court, Cheyyur is*



rejected.”

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C.M.P.No.18451 of
in C.R.P. (PD) No.2300 of



15.Registry is directed to issue fresh order copy after carrying out the amendments mentioned above. The other contents of the order of this Court dated 23.12.2021 made in C.R.P.(PD).No.2300 of 2018, as amended by order dated 18.02.2022, shall stand unaltered.

24.11.2022

(gsa/krk)



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