



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2022

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The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P.PD.No.2374 of 2017

and

C.M.P.No.11216 of 2017

Neelavathy

... Petitioner

Vs.

- 1.Sundari
- 2.Santhanam
- 3.Nirmala
- 4.Kumaravel

5.M/s.Pae Builders
rep. by its Managing Director,
M.Krishnakumar
No.58, Anna Nagar West,
Chennai – 600 102.

6.M/s.Ben Foundation
rep. by its Managing Director, Rajan Der,
North Park Road,
Padikuppam Road,
Anna Nagar West,
Chennai – 600 040.

7.The Sub-Registrar
Villivakkam, Chennai.

8.Vasu

9.Suresh



10.Sumithra

11.Rani

12.Priyanka

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 13.04.2017 in I.A.No.255 of 2015 in O.S.No.195 of 2009 on the file of the III Additional District and Sessions Court, Poonamallee.

For Petitioner .. No appearance

For R5 .. Mr.B.Rajkumar

ORDER

There is unfortunately no representation again on behalf of the revision petitioner. There was also no representation on the previous hearing date, 09.03.2022.

2.The plaintiff in O.S.No.195 of 2009 on the file of the III Additional District Court, Poonamallee, is the revision petitioner herein. After cross-examination of PW-1 and PW-2, an application in I.A.No.255 of 2016 had been filed seeking amendment of the relief sought to include two further reliefs namely, to declare that the sale deed



same date as null and void. That particular application was dismissed, necessitating the filing of the present Civil Revision Petition.

3.The learned counsel for the 5th respondent is present. The learned counsel raised a grievance that the application seeking amendment had been filed after trial had commenced and after the plaintiff witnesses have been examined and cross-examined.

4.It is needless to point out that Order VI Rule 17 of CPC places an embargo on amendment being granted post trial or after commencement of trial, with a small caveat that such amendment should not have been to the knowledge of the applicant prior to commencement of trial with due diligence.

5.In the instant case, it is seen that the amendment sought was to declare the two particular sale deeds dated 05.10.2007, which was much prior to the institution of the suit. It is also informed by the learned counsel for the 5th respondent that the matter is now posted for arguments.



6. In view of the fact that the petitioner appears to have consciously taken a decision to proceed further with the trial, which direction had been granted by this Court on the previous hearing date, and further, the amendment sought was after the commencement of the trial with respect to the two particular sale deeds, which were prior to the institution of the suit, I find no merits in the Civil Revision Petition and the same is dismissed. No order as to costs. Consequently, the connected Civil Miscellaneous Petition is closed.

7. A direction is given to the III Additional District Court, Poonamallee, to endeavour to dispose of the suit, which is now pending for the past 12 years on the file of the said Court, on or before 31.07.2022.

28.03.2022

Internet: Yes/No
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To
The III Additional District Court, Poonamallee.



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C.V.KARTHIKEYAN,J.

Smv

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