



C.R.P. (NPD) No. 2566 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.R.P. (NPD) No. 2566 of 2017

V.Munirathinam

... Petitioner/Petitioner/Plaintiff

-Vs-

1. The Collector
Vellore District
Sathuvachari
Vellore -9.
2. The District Revenue Officer
Collectorate Building
Sathuvachari
Vellore -9.
3. The Revenue Divisional Officer
Collectorate Building
Sathuvachari,
Vellore – 9.
4. The Thasildar
Taluk Office
Velapadi
Vellore.



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5. The District Surveyor
Vellore Taluk Office
Velapadi,
Vellore -1.
6. Muthu
7. M.Arulselvakumar ... Respondents/Respondents/Defendant

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 01.03.2017 in I.A.No. 1169 of 2016 in O.S.No. 171 of 2013 on the file of the Court of Principal District Munsiff Court, Vellore.

For Petitioner	:	Mr. T.Anjolie Udayamani
For RR 1 to 5	:	Dr. S.Suriya Additional Government Pleader

ORDER

The Revision Petition has been filed by the plaintiff in O.S.No. 171 of 2013 on the file of the Principal District Munsif Court, Vellore, aggrieved by the dismissal of I.A.No. 1169 of 2016 by order dated 01.03.2017.



2. The suit in O.S.No. 171 of 2013 had been filed by the present petitioner originally against 6 defendants, namely, (1) the Collector, Vellore District, (2) The District Revenue Officer, Vellore, (3) The Revenue Divisional Officer, Vellore, (4) The Thasildar, Vellore, (5) The District Surveyor, Vellore and (6) Muthu, who had been described as son of Ayyadurai and residing at Melvallam Village, Kattukkanur Post, Vellore Taluk, and District, seeking a Judgment and Decree against the defendants for mandatory injunction directing the defendants 1 to 5 to grant a separate patta and separate sub division for the suit schedule mentioned properties in favour of the plaintiffs and to grant permanent injunction restraining the 6th and 7th defendants from interfering with the plaintiff's peaceful possession and enjoyment of the suit property.

3. Thereafter, in view of an intervivos document executed by the 6th defendant in favour of his own son, necessity arose to implead the said son M.Arul Selvakumar, as a defendant in the suit. It is seen that such impleading was allowed in I.A.No. 138 of 2014 by order dated 20.03.2014.



4. After trial, the suit was decreed. The plaintiff on receipt of the decree copy found that the name of the 7th defendant, who had been impleaded by way of the aforementioned application was not found in the decree. Therefore, an application under Section 152 of the Code of Civil Procedure was filed calling upon the Court to amend the decree by including the name of the 7th defendant, namely, M.Arul Selvakumar.

5. This application came up for consideration before the learned District Munsif at Vellore, who, by an order dated 01.03.2017 dismissed the application, necessitating filing of the present Revision.

6. As a matter of fact, the learned District Munsif appears to have examined the entire records before passing the order. He had observed in paragraph 8 of the order that the application seeking amendment was allowed in I.A.No. 138 of 2014. Thereafter, he also observed that consequent to such petition being allowed, the petitioner herein had also filed I.A.No. 428 of 2014 under Order 6 Rule 17 Civil Procedure Code to actually amend the plaint.



7. In that application, notice was issued to the counsel.

Thereafter, it was posted for counter and disposal and since counter was not filed, I.A.No. 428 of 2014 was allowed by order dated 11.06.2014. In paragraph 9 of the order, the Principal District Munsif had also observed as follows:-

“9. Thereafter, on perusal of the suit notes paper dated 26.06.2014 following order is found “Amendment carried out, APC by 16.07.2014”. On 16.07.2014 the APC was filed on 21.07.2014, the APC checked found correct and issue summons to newly added defendant.....”

8. The portion extracted above shows that the petitioner herein had amended the plaint and had also filed amended plaint copy which was also checked and verified and was found to be correct. Then, summons was directed to the newly impleaded 7th defendant.

9. Thus, the plaintiff had done all that he could, pursuant to the permitting of amendment impleading the 7th defendant.



10. However, the learned District Munsif had thereafter observed

as follows in paragraph No.11:-

“11. Further on perusal of the Judgment passed by this Court in the short cause title, the 7th defendant name is not found. On perusal of the decree, the 7th defendant name is not found.”

11. The Principal District Munsif had relied on the cause title given in the Judgment and not in the plaint as amended. He observed that since in the Judgment, there were only six defendants shown, and in the decree which naturally follows, only six defendants can be shown. But the District Munsif had failed to observe that there was an error apparent on the face of the Judgment itself in so far as the cause title is concerned and the 7th defendant had been omitted to be mentioned. A decree can be amended and that is the application which the petitioner has filed.

12. I hold that the learned District Munsif had erred in his observation that because of the cause title in the Judgment did not contain



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the impleaded party, it was only natural that the decree should not contain the name of the impleaded party.

13. The plaint having been amended and the amended plaint having been filed, an obligation was placed when the decree was drafted, that the parties to the suit are reflected in the decree. Therefore, the order under revision naturally has to be interfered with and it is set aside and I.A.No. 1169 of 2016 filed by the revision petitioner is allowed.

14. The Principal District Munsif, Vellore, is directed to ensure that necessary amendments in the decree in O.S.No. 171 of 2013 and carried out and a fresh copy is issued to the petitioner herein on necessary application.

15. This Civil Revision Petition is allowed. No costs.

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Index: Yes / No
Speaking / Non-Speaking order
vsg



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To

WEB COPY

1. Principal District Munsif Court,
Vellore.
2. The Section Officer,
VR Section,
Madras High Court, Chennai.



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C.V.KARTHIKEYAN, J.

Vsg

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