



C.R.P.No.2932 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2022

CORAM:

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

C.R.P.No.2932 of 2017
and C.M.P.No.13850 of 2017

1.Venkatesan

2.Kanagaraj

...Petitioners /Defendants

Versus

1.Balaji Ammal

2.Bakiyaraj

...Respondents /Plaintiffs

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Fair and Decretal order dated 01.07.2017 made in I.A.No.499 of 2017 in O.S.No.45 of 2016 on the file of the II Additional District Munsif, Ulundurpet.

For Petitioners : Mr.C.Munusamy

ORDER

Aggrieved against the order, dated 01.07.2017 made in I.A.No.499 of 2017 in O.S.No.45 of 2016 on the file of the II Additional District Munsif, Ulundurpet, the present revision has been filed.



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2. Suit in O.S.No.45 of 2016 was filed by the respondents herein/plaintiffs for declaration and permanent injunction against the petitioners, for the property bearing survey S.No.229/4, measuring an extent of 0.33 cents. The plaintiffs filed an application under Order VI Rule 17 of the Civil Procedure Code in I.A.No.499 of 2017 to delete 0.05 cents from the entire 0.33 cents in the description of the property. The learned Judge allowed the application, holding that the proposed amendment will not alter the nature of the suit nor affect the defence raised by the defendant. Aggrieved against the same, the defendants have preferred the present revision petition.

3. The learned counsel for the petitioners submits that the suit is ripe for trial and at that time, the plaintiffs have filed an application in I.A.No.499 of 2017 for amendment of plaint, only with an intention to drag on the proceedings.

4. Per contra, the learned counsel for the respondents/plaintiffs would submit that the suit property totally consists of 0.33 cents, out of which, the plaintiffs have sold 0.05 cents to the grandsons of the first plaintiff and as such, the plaintiffs have valid title for 0.28 cents in the suit survey number, however,



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the respondents/ plaintiffs took lease of the 0.05 cents and are in enjoyment of the entire 0.33 cents, but having valid title for only 0.28 cents and had wrongly filed the suit for the entire 0.33 cents instead of 0.28 cents.

5. Heard the learned counsel for the petitioners and the learned counsel for the respondents and perused the materials placed before this Court.

6. Considering the submissions made by the learned counsel for the petitioner and perusal of the records will show that the amendment sought for by the plaintiff is not contrary to the averments in the plaint in the nature of affecting the defence of the defendants and therefore, the learned Judge has allowed the application for amendment. I do not find any infirmity in the said order. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is dismissed.

15.06.2022

Index: Yes/ No

Internet : Yes/No

gv/sts



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J.NISHA BANU, J.,

sts

To:

- 1) The II Additional District Munsif,
Civil Judge, Ulundurpet.
- 2) The Section Officer, V.R.Section,
Madras High Court.

Order made in
C.R.P.No.2932 of 2017

Dated:
15.06.2022