



CRP(PD)No.3449 of 2017  
and CMP.No.16024 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

**CRP(PD)No.3449 of 2017**

**and**

**CMP.No.16024 of 2017**

C.Paramasivam (Died)

1.P.Ambujammal

2.P.Murugesan

3.P.Ravi

4.P.Mari

5.P.Sundaresan

6.P.V.Selvi

...Petitioners

Vs.

V.Kuppan (Died)

1.Kanthammal

2.Kamala

3.Mohana

4.Viji @ Vijayakumar

5.Jai @ Jayakumar

...Respondents

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Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair & decreetal order dated 31.07.2017 passed in I.A.No.615 of 2017 in O.S.No.473 of 2006 on the file of the Principal District Munsif Court, Vellore, Vellore District.

For Petitioners : Mr.S.Gunaseelan

For Respondents : Mr.S.Deivasigamani for R2 to R5

- No Appearance

### **ORDER**

The plaintiffs in O.S.No.473 of 2006 on the file of the Principal District Munsif Court at Vellore are the revision petitioners herein. They are aggrieved by the order dated 31.07.2017 passed in I.A.No.615 of 2017, which application had been taken out by them to amend the schedule so far as 'A' and 'B' schedule properties are concerned.

2.The suit in O.S.No.473 of 2006 had been filed originally by C.Paramasivam and consequent to his death, his legal representatives had been brought on record and they are the revision petitioners herein. The said



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suit had been filed for declaration of the right over a pathway of the plaintiff over the 'B' schedule property and for granting injunction restraining the defendants from putting up any construction over the 'B' schedule property and for declaring that a particular sale deed dated 20.02.2006 executed by the 1<sup>st</sup> defendant in favour of the 2<sup>nd</sup> defendant as null and void and also for costs.

3.In the plaint, the 'A' schedule had been given as lands situated in Dry Survey No.293/2G and measuring 0.52 acre. The 'B' schedule was also mentioned as being in Survey No.293/2G and as a pathway from the Bangalore Road leading to the 'A' schedule through the Panchayat road.

4.The necessity for amendment of the schedule and for filing I.A.No.615 of 2017 arose owing to Sub-division of the survey numbers by the revenue authorities. It had been contended, that the lands which were in Survey No.293/2G has now been allotted as Survey No. as 293/2G3. It had been stated that there is no change in the boundaries or in identifying the property. This necessity to reclassify the survey number from 293/2G to



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293/2G3 had arisen owing to the sub-division by the revenue authorities.

Such amendment had been sought in both 'A' and 'B' schedule properties.

5. During the course of the pendency of O.S.No.473 of 2006, an Advocate Commissioner had an opportunity to examine the physical features of the lay of the land and to file a report along with a sketch prepared by the Taluk Surveyor. A sketch had been appended as a record to the present revision petition and a perusal of the same shows that 'A' schedule property is distinct from 'B' schedule property. 'B' schedule property is a pathway and that is adjacent to 'A' schedule property. It is a pathway which leads to the 'A' schedule property.

6. In the present revision petition, notice had been directed to the respondents and notice had been served and learned counsel, Mr.S.Deivasigamani had entered appearance on behalf of the respondents 2 to 5. Unfortunately, there has been no appearance before this Court even though the name of the learned counsel has been printed in the cause list.



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7. In view of the fact that the suit is of the year 2006, let me not hold over the revision petition any further.

8. The learned Principal District Munsif, Vellore, while considering the application in I.A.No.615 of 2017 had dismissed the said application by holding that the application had been filed after considerable delay and after the trial had already commenced and therefore, had stated that the amendment does not merit any consideration and had proceeded to dismiss the said application.

9. Heard Mr.S.Gunaseelan, learned counsel for the revision petitioners.

10. In any suit, it will only be appropriate that the identity of the suit is properly given particularly, if the suit is based on an immovable property. If there is any change in the revenue records either subsequent to the institution of the suit or even pending the suit, it will only be appropriate that said mutations in the revenue records are reflected in the description of the



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properties in the civil suit. In such circumstances, the issue that the amendment was sought pending trial, cannot be put against the plaintiffs because the cause had arisen only during the pendency of the suit.

11.In the instant case, the claim of the plaintiffs / revision petitioners is that the survey number of 'A' schedule property and consequently, of 'B' schedule property has to be changed to the limited extent that it has to be corrected from 292/2G to 292/2G3. This is pursuant to a mutation in the revenue records.

12.But however, the said amendment can be carried out only with respect to 'A' schedule property. With respect to the 'B' schedule pathway, which is the borne of contention between the plaintiffs and the defendants, since the identity of 'B' schedule is not in dispute, let it remain as such and let the parties move on with the trial, leaving the identity of the 'B' schedule as it had been described in the plaint and as it had been understood by the defendants in their written statement.



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13.I would therefore, permit the amendment to be carried out only with respect to 'A' schedule in the plaint as sought in I.A.No.615 of 2017 but I would not permit such amendment in the 'B' schedule property.

14.This Civil Revision Petition is partly allowed to that limited extent. A direction is given to the learned Principal District Munsif, Vellore to ensure that necessary amendment is carried out with respect to the 'A' schedule alone, not only in the plaint but also in the suit register where the description of the properties are given and thereafter, if required, permit the defendants to file any written statement and proceed further with the trial. It is hoped that the learned District Munsif should endeavour to dispose of the suit in O.S.No.473 of 2006 on or before 31.12.2022. No costs. Consequently, connected miscellaneous petition is closed.

**22.04.2022**

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Index:Yes/No

Internet:Yes/No

Speaking / Non-speaking order

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**C.V.KARTHIKEYAN, J.**

KKN

To:-

The Principal District Munsif Court,  
Vellore.

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