



C.R.P. No. 3576 of 2018

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2022

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

**C.R.P.No. 3576 of 2018
and
C.M.P. No. 20028 of 2018**

1 Gopal
S/o. Thangavel

2 Selvam
S/o. Gopal

3 Jayakumar @ Jayakannan
S/o. Gopal

4 Duraisami
S/o. Gopal

5 Suseela
S/o Late Samiyappan

6 Murugesan
S/o. Late Samiyappan

... Petitioners

Versus



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1 Govindammal
W/o. Alagappan
S/o. Thangavel

2 Krishnan
S/o. Alagappan

... Respondents

PRAYER : Civil Revision Petition filed under Art. 227 of Constitution of India, praying to set aside the fair and decreetal order dated 20.09.2018 made in I.A.No.465 of 2017 in O.S.No.1045 of 2015 passed by the learned Principal District Munsif, Salem.

For Petitioners : Ms.K.S.Kamatchi

For Respondents : Mr.K.Selvaraj for R1 & R2

ORDER

Challenging the order passed in I.A. No.465 of 2017 in O.S.No.1045 of 2015 by the learned Principal District Munsif, Salem the defendants preferred this Civil Revision Petition.



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WEB COPY 2. Originally, the suit in O.S.No.1045 of 2015 was filed by the respondents/plaintiffs herein for the relief of declaration and mandatory injunction in respect of five items of properties. Thereafter, notices were served on the defendants 1 to 4 and they have filed their written statement. After that, before commencement of trial, the plaintiffs filed an application in I.A.No. 465 of 2017 under Order 6 Rule 17 of C.P.C. praying to amend description as well as extent of the property as annexed with the plaint schedule. The said application was strongly objected by the defendants stating that if the proposed amendment is allowed, it would change the entire character of the suit, besides they have also added other defendants in the suit, against whom, they have now putforth a new plea. Therefore, the entire nature of suit would be changed. So, the plaintiffs cannot permitted to make amendment. Hence, they raised objections. Considering submissions of both sides, the trial court allowed the application stating that all the proposed amendment is permissible one in order to decide the real controversy between the parties and if the value of the property is enclosed, the District Court has no jurisdiction and the plaint would become



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infructuous and the same to be presented before the concerned court.

Accordingly, the order was passed. Challenging the said findings, the defendants preferred this Civil Revision Petition.

3. The learned counsel for Revision Petitioners argued that the trial court ought to have seen that the original plaint was filed for the relief of declaration against defendants 1 to 6 and now, they waived the relief against defendants 1 to 4, besides they want to amend the description of property by including more extent. All these things would change the nature of suit as well as cause of action also would differ. But, the trial court without appreciating all those facts, erroneously allowed the application. Hence, they prayed to allow this Revision Petition by setting aside the findings of the trial court.

4. By way of reply, the learned counsel for respondents/plaintiffs submitted that at the time of filing the suit, earlier counsel not submitted all the particulars of property while filing the suit and now only the plaintiffs came to know that description of properties and boundaries of properties not



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prescribed. Hence, they filed the application and the same was rightly allowed by the trial court.

5. Heard and considered rival submissions made by learned counsel for Revision Petitioners as well as Respondents and perused the records.

6. Considering the facts and circumstances and on perusal of records, it reveals that before commencement of trial, the plaintiffs filed an application to amend the description of property by including more extent and also the prayer in the suit seeking the relief of declaration in respect of defendants 1 to 6. Admittedly, the suit is filed for declaration and now the plaintiffs wanted the relief of declaration including some amendment with regard to description and extent of property, which would change the nature of suit and the same was rightly appreciated by the trial court, which needs no interference.

7. In the result, this Civil Revision Petition is dismissed and the order passed by trial court in I.A.No. 465 of 2017 is confirmed. However, liberty



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is granted to the defendants to file their additional written statement, if they wanted to file it. Since the suit is pending from the year of 2015, the trial court is directed to proceed with the trial and dispose the case within a period of eight months from the date of receipt of copy of this order. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

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Index : Yes/No
Internet: Yes/No
Speaking/Non Speaking order
rpp

To

Principal District Munsif,
Salem.



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T.V.THAMILSELVI, J.

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