



CRP(PD)(MD)No.1297 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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and

C.M.P.(MD)No.5343 of 2022

Anthonimuthu @ Anthonisamy Udayar (died)

A.Thomas (died)

1. A.Irudhayam

A.Mathyas (died)

2. A.Arulsamy

3. Fathima Mary

4. T.Paripooranam

5. T.Charles

6. T.Reena Rohini

7. T.Victor Amalraj

8. Mary Rani

9. M.Ranjith Arockiyaraj

10. M.Robinson Vinothkumar

... Revision

Petitioners

v.

1. Kulandhaimmal

2. Arockiyamary

3. Chinnappan

4. Micheal Raj

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- Madhalaimary (died)
5. Jacqueline Arulmary
6. Jesumary
7. Dyana Annammal
8. The Union of India,
Rep. by its Secretary to Government,
Ministry of Shipping, Road Transport
and Highways,
“Transport Bhavan”, No.1, Parliament Street,
New Delhi – 110 001.
9. The Competent Authority and Special
District Revenue Officer,
(Land Acquisition, N.H), Perambalur,
Tiruchirapalli, Pudukottai and
Thanjavur Districts,
having Office at Tiruchirapalli – 620 001.
10. The State of Tamilnadu
Rep. by its District Collector,
Thanjavur having his office at Court Road,
Thanjavur Town and Munsifi.
11. The Thashildar,
Thanjavur Taluk having his office at
Taluk Office, Court Road,
Thanjavur Town and Munsifi.
12. A.John

... Respondents



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Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 25.02.2022 made in I.A.No.154 of 2021 in O.S.No.477 of 2008 on the file of the Principal District Munsif, Thanjavur.

For Revision

Petitioners : Mrs.AL.Ganthimathi

For Respondents : Mr.V.S.Kumaraguru

ORDER

This Civil Revision Petition is filed against the order dated 25.02.2022 passed in I.A.No.154 of 2021 in O.S.No.477 of 2008 by the learned Principal District Munsif, Thanjavur.

2. The revision petitioners are plaintiffs in O.S.No.477 of 2008 on the file of the learned Principal District Munsif, Thanjavur. They filed the said suit for declaration and injunction against the defendants/respondents herein. While so, the plaintiffs/revision



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petitioners filed an interlocutory application in I.A.No.154 of 2021 in O.S.No.477 of 2008 to amend the plaint schedule property by adding two other sub divisions of the property, viz., Survey Nos.205/3A1 and 205/4. The trial Court, by order dated 25.02.2022, dismissed the said application on the ground that the suit is of the year 2008; the plea has also been taken by the defendants even in the written statement filed in the year 2009 and since the application for amendment has been filed belatedly, i.e. after more than 10 years, the amendment cannot be permitted. Challenging the same, the present Civil Revision Petition is filed.

3. The learned counsel appearing for the revision petitioners submits that the suit was filed for declaration and injunction with regard to the suit schedule property in Survey 205/3, which has been re-surveyed as Survey Nos.205/3A and 205/3B. There was an acquisition of a portion of the property in Survey No.205/3A and therefore, the property has been sub divided further as Survey Nos.



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205/3A1 and 205/3A2. There are other sub divisions also in the suit schedule property as Survey Nos.205/3B1, 205/3B2, 205/4 and 205/5.

Since the plaintiffs/revision petitioners sought for a declaration only with regard to the property in Survey No.205/3, which has been subdivided as 205/3A2, the plaintiff has not mentioned about the other sub divisions in the plaint schedule property and only during the trial, this mistake has been noted and the plaintiffs/revision petitioners have been advised that if other sub divisions are not added in the plaint schedule property, then, it would be very difficult to identify the suit property as claimed in Survey No.205/3A2. Therefore, the plaintiffs/revision petitioners filed an interlocutory application under Order 6 Rule 17 C.P.C. and Section 151 C.P.C. to permit them to amend the plaint. However, the trial Court, without considering the reasons assigned therein, dismissed the application erroneously on the ground that the suit is of the year 2008 and the application was filed in order to drag on the proceedings. The learned Counsel has also filed an affidavit of undertaking of the petitioner dated 21.07.2022, that they would adduce



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further evidence only in respect of the documents for subdivision now sought to be amended and would not take further time to adduce any other evidence. Hence, she prays for allowing the Civil Revision Petition.

4. Mr.V.S.Kumaraguru, learned counsel, who takes notice for the respondents, submits that the application for amendment was filed after the examination of witnesses on either side. He further submits that the sub divisions have been mentioned by the defendants in the written statement filed in the year 2009. However, the plaintiffs/revision petitioners have not taken any step to amend the plaint at the relevant point of time. Now, the application was filed in order to drag on the proceedings further. Therefore, he prays for dismissal of the Civil Revision Petition.

5. This Court considered the rival submissions made and perused the order passed by the trial Court.



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6. The claim of the revision petitioners is in Survey No.205/3, which has been re-surveyed as Survey Nos.205/3A, 205/3B, which have again been sub divided as Survey Nos.205/3A1, 205/3A2, 205/3B1, 205/3B2, 205/4 and 205/5. The revision petitioners are seeking declaration with regard to the property in Survey No.205/3A2. Now, the apprehension of the revision petitioners is that if other sub divisions are not mentioned in the plaint schedule property, then, it will be very difficult to identify the property of Survey Nos.205/3A2. Therefore, the plaintiffs/revision petitioners, for abundant caution, filed the application for amending the plaint schedule property under Order 6 Rule 17 of C.P.C. Though the trial has been concluded, the amendment of the suit schedule property by adding other sub divisions may not introduce any new cause of action in the suit and it is only for the purpose of identifying the suit property in Survey No.205/3A2. That apart, the petitioners have filed an affidavit of undertaking that they would adduce further evidence only in respect to the documents



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for subdivision, now sought to be amended. In view of this undertaking affidavit and in order to avoid the multiplicity of proceedings, this Court is inclined to allow this Civil Revision Petition.

7. Accordingly, the Civil Revision Petition is allowed. The learned Principal District Munsif, Thanjavur, is directed to permit the plaintiffs/revision petitioners to amend the plaint schedule property. The petitioners shall adduce further evidence, if required, only with regard to the subdivisions now amended. The trial Court shall endeavour to conclude the suit proceedings, in accordance with law, as expeditiously as possible, preferably within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

21.07.2022

Index : Yes / No
Internet: Yes / No
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To

The Principal District Munsif,
Thanjavur.



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B.PUGALENDHI, J.

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