



CRP No.139 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2023

CORAM:

THE HONOURABLE Mr. JUSTICE LAKSHMI NARAYANAN

CRP No.139 of 2012 and M.P.No.1 of 2012

1.Sekar
2.Venkatesan
3.Govindammal

... Petitioners

Vs

1.K.Kannan
2.Renuka
3.Vennila
4.Malathi

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 11.10.2011 passed in I.A.No.39 of 2011 in A.S.No.8 of 2011 on the file of learned Subordinate Judge, Panruti.

For Petitioners : Mr.Kingston Jerald

For Respondents : Ms.R.Meenal

For R.1

R.2 to R.4 – dismissed vide
order dated 08.02.2023



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ORDER

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This Civil Revision Petition arises against an order allowing the application for amendment in I.A.No.39 of 2011 on the file of Subordinate Judge, Panruti.

2. The plaintiff is the appellant before the lower appellate court. He had filed a suit for declaration of his right with respect to “B” schedule property and permanent injunction as against the defendants. The basis of the suit is that his father had purchased 1/3rd of the property as early as on 25.01.1967 under Ex.A.1. In the said document, the survey number was given as 129A/1A. Subsequently, the plaintiff had purchased in his own right 1/3rd share in the said survey number under Ex.A.2 dated 08.06.2000.

3. Unfortunately, in his document, the survey number was wrongly given as 129/1B. He has been careful enough to give the correct survey number in the plaint including the extent. However, due to typographical error, instead of mentioning as 129A/1A, it was mentioned as 129A/1. The subdivision “A” was left out. That was sought to be included by way of I.A.No.39 of 2011.



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4. The application was allowed by the first appellate court, aggrieved by which, the present revision is before this Court.

5. Mr.S.Kingston Jerald, learned counsel for the revision petitioners vehemently contend that allowing the application would only show that the trial court has condoned the negligent attitude of the plaintiff. He would argue that the suit has been pending from 2001 and the Court ought not to have allowed to amend the schedule even if it is a typographical error in the year 2011.

6. Heard Ms.R.Meenal, learned counsel for the first respondent.

7. Admittedly, the purchase made by the plaintiff is for survey number 129A/1A. To an obvious eye, a mistake had been committed, for which, the party should not be penalised. By allowing the amendment application, the frame of the suit remains unchanged; cause of action for the suit remains unchanged, the relief remains unchanged nor is there substitution of a new property. No prejudice would be caused to the respondents by allowing the amendment application.



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V.LAKSHMINARAYANAN,J.

8. The lower appellate court has correctly exercised its jurisdiction^{sr} and has permitted to correct the error committed by the party. This discretion has been properly exercised and I do not find any illegality or irregularity to interfere with the order passed by Subordinate Court, Panruti in I.A.No.39 of 2011 in A.S.No.8 of 2011 dated 11.10.2011.

9. In the result, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

11.07.2023

Index:Yes/No
Speaking order/Non-speaking order
sr

To
The Subordinate Court, Panruti

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