



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVIC.R.P.No.3646 of 2023andC.M.P.No.22892 of 2023

Raja

... Petitioner

-Vs-

Krishnaveni

... Respondent

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 19.04.2023 in I.A.No.2 of 2023 in O.S.No.55 of 2018 on the file of the Principal District Munsif Court at Tirupattur.

For Petitioner : Mr.D.Daniel

ORDER

Challenging the impugned order passed in I.A.No.2 of 2023 in O.S.No.55 of 2018 on the file of Principal District Munsif, Tirupattur, the plaintiff preferred this Civil Revision Petition.



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2. Since the relief sought challenging the order passed by the trial judge, notice to the respondent is dispensed with.

3. The learned counsel for Revision Petitioner would submit that before the trial court, he filed an Interlocutory Application to amend the description of property by including four boundaries of property, which was omitted to mention while filing the suit inadvertently. So, he filed the said application to amend the description of property as well as to correct the name of his father. That application was objected by the defendant stating that to drag on the proceedings, the said application was filed. He would also submit that after the trial was begin as well as after examination of evidence on both sides and when the case was posted for argument, the plaintiff filed the said application to amend the description of property as such is not maintainable and he ought to have filed the said application before starting the trial proceedings. Therefore, the said application was rightly dismissed by the trial court.

4. The learned counsel for Revision Petitioner would argue that as per the sale agreement dated 01.03.2017, he filed the suit for specific performance against the defendant, but while filing the suit, in the



description of property, four boundaries as mentioned in the agreement was not mentioned inadvertently. Only at the time of trial, the said mistake came to know to their knowledge, immediately, they have filed the application to amend the description of property, but the trial judge not permitted the same and erroneously dismissed that application. If at all, the said mistake has not been corrected in the suit schedule, he will be put to much hardship while executing the decree and no prejudice would be caused to the defendant. Therefore, he prayed to set aside the findings rendered by the trial judge.

4. Records perused. On a bare perusal of records, it would clearly reveal that now the evidence was closed and the case was posted for arguments. On bare perusal of sale agreement dated 01.03.2017, it is found that the plaintiff filed a suit for specific performance and in the plaint, the description of property was mentioned only as 1080 sq.ft. without any boundaries, however, in the sale agreement, the suit property was mentioned along with four boundaries. Admittedly, the sale agreement was also filed along with the plaint at the time of filing suit itself. Therefore, the amendment, which was sought by the plaintiff is not an invented one and only by inadvertence, the four boundaries was not mentioned in the



description of property. So, if the opportunity is not given to the plaintiff to amend the description of property as rightly pointed out by the learned counsel for Revision Petitioner, he will be put into much hardship while executing the decree in his favour, if any, in future and it would also lead to multiplicity of proceedings. Furthermore, the proposed amendment would not cause any prejudice to the defendant nor it would change the character of the suit. But the trial judge arbitrarily failed to appreciate the legal aspects and dismissed the application. Hence, the findings of trial judge is liable to be set aside. Accordingly, this Civil Revision Petition is allowed and the findings rendered by the trial judge in I.A.No.2 of 2023 in O.S.No. 55 of 2018 is set aside. Liberty is granted to the defendant to file additional written statement before the trial court. The learned trial judge is directed to complete the trial and dispose the case on merit as early as possible. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

09.10.2023

Index : Yes/No

Speaking Order : Yes/No

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To

The Principal District Munsif, Tirupattur.



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5

C.R.P.No.3646 of 2023

T.V.THAMILSELVI, J.

rpp

C.R.P.No.3646 of 2023

09.10.2023