



C.R.P. No. 2753 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :.07.08.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P. No. 2753 of 2023

and

C.M.P.No.16966 of 2023

1. Lalitha

...Petitioner

.Vs.

1. S. Prakash

2. M/s Dwarka Paper products Private Limited
Having Office at
Saravanan Thottam,
Thudiyalur Village, Coimbatore North Taluk.

3. K. Sarojini @ Sarasu

4. K. Girinath

..Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 26.06.2023 in I.A.No.5 of 2022 in O.S.No.3414 of 2004 on the file of the I



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Additional District Munsif Court, Coimbatore and allow the above Civil Revision petition and pass orders.

For Petitioner : Mr. C.R. Prasanan

For Respondent : Mr. Vadiraj Anirudh for Mr. P. Swaminathan

ORDER

This petition is filed seeking a direction to set aside the fair and decreetal order dated 26.06.2023 in I.A.No.5 of 2022 in O.S.No.3414 of 2004 on the file of the I Additional District Munsif Court, Coimbatore.

2. The facts of the case is that the subject property is the ancestral property and there was some dispute regarding the partition of the subject property. The predecessors of the petitioner are in possession of larger extent of the land and a sale has taken place and while partitioning the subject property there was dispute with regard to demarcating the subject property. Whiles, the petitioner and three other persons filed O.S.No.3414 of 2004 for partitioning the subject property and thereafter filed I.A.No.5 of 2022 in O.S.No.3414 of 2004 under order 6 Rule 17 to amend the plaint as



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there was some errors with regard to the Survey numbers and other details.

However, the said I.A was rejected on the ground that the petitioner has approached the Court for amending the plaint very belatedly and allowing the amendment will delay the Judgment of the suit. Hence this petition.

3. The learned counsel for the petitioner submitted that the lands mentioned in the suit schedule was described on the basis of the Patta and not on the basis of the Sale deed. He further submitted that the petitioner is only trying to set right the schedule to the plaint in order to get an workable decree. . Hence he prays this Court to allow this petition.

4. This Civil Revision Petition revolves around two aspects, first is whether the schedule of the property is described on the basis of the patta or on the basis of the sale deed. Second aspect is whether the details mentioned in the suit with regard to the subject property needs to be amended or not which is the plea of the petitioner herein.



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5. With regard to first aspect whether the schedule of the property is described on the basis of the patta or on the basis of the sale deed, it is seen that the schedule of the property is described on the basis of patta, hence, the schedule of the property should be amended. Further more it is very well known that a title deed is a document of title, whereas as a patta is only a record of the title and by relying on the patta and passing Judgment in the suit will not meet the ends of justice. With regard to second aspect whether the details mentioned in the suit with regard to the subject property needs to be amended or not, on a perusal of records, it is seen that admittedly there was some discrepancies in description of the subject property in the suit, hence, to put a quietus to this issue, it is just and necessary to amend the plaint in the suit as per the original sale deed, due to which, the respondent will also get benefited, as it will be convenient for them to identify and demarcate the subject property.

6. In view of the above, the order passed by in I.A.No.5 of 2022 in O.S.No.3414 of 2004 on the file of the I Additional District Munsif



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Court, Coimbatore on 28.06.2023 is hereby side aside and the learned Judge is directed to proceed the case as per the Sale deed and pass Judgment on merits and in accordance with law.

7. With the above directions, this Civil Revision Petition is disposed of. No order as to costs. Consequently, the connected miscellaneous petition is closed.

07.08.2023

smn

Index : Yes/No

Internet: Yes/No

To.

1. The I Additional District Munsif Court, Coimbatore



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Smn

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