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1

CRP.No.3634 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.3634 of 2023

Rajalakshmi

... Petitioner

-Vs-

1.Velumani

2.M.Kathirvel

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 20.03.2023 passed in Un Numbered IA No....of 2022 in O.S.No.893/2008 (CFR No.5187/2022) dated 06.12.2022 on the file of the IV Additional District Court, Coimbatore.

For Petitioner : Mr.K.Govi Ganesan

ORDER

The Revision Petitioner herein is the plaintiff filed a suit in O.S.No.893 of 2008 on the file of IV Addl. District Judge, Coimbatore seeking for the relief of partition and other relief against the defendants. The defendants also appeared and thereafter, a compromise was arrived between



parties in respect of three different survey numbers, but they omitted to mention one more family property in S.F.No.46/4 inadvertently. Therefore, after the compromise decree, he wanted to amend the decree by including survey No.46/4 instead of 46/3, since it was wrongly mentioned in the suit schedule. Therefore, he filed an application before the IV Addl. District Judge, Coimbatore and the said application was not taken on file by the trial judge, but in the initial stage itself, it was rejected stating that numeric error alone can be amended and the change of survey number in the compromise decree would change the nature of the case. Challenging the same, the plaintiff preferred the present Civil Revision Petition.

2. Since the relief is sought challenging the order of trial judge, notice to the respondents is dispensed with.

3. The learned counsel for Revision Petitioner would submit that in fact the property in Survey No.46/4 measuring an extent of 1.48.0 hectares was belong to her father Mysamy gounder, but it was omitted to mention in the schedule of suit property. Though it belongs to their family, the said property also to be included in the compromise decree, which was held between family members. Therefore, he filed an application to amend the decree. If at all, he was not permitted, his valuable right over the property



will be defeated. Hence, he prayed to set aside the findings of the trial judge.

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4. On bare perusal of facts, it reveal that the property stands in the name of plaintiff's father, but in the suit schedule, they have mentioned the Survey No. 46/3 only and now she wanted to include Survey No.46/4 in the compromise decree. Considering the facts and circumstances as well as learned counsel for Revision Petitioner's submissions, the trial judge is directed to take the Interlocutory Application filed by the plaintiff on file and give opportunity to either side and on hearing of both sides, dispose the said application on merits. Accordingly, this Civil Revision Petition is disposed of.

No costs.

06.10.2023

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Index : Yes/No

Speaking Order : Yes/No

To

IV Additional District Judge,
Coimbatore.



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4

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T.V.THAMILSELVI, J.

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