



WEB COPY



CRP.No.2968 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2023

CORAM :

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

Civil Revision Petition No.2968 of 2023

and

CMP.No.18342 of 2023

1.K.Dhanalakshmi
2.G.Amutha
3.K.Lakshmanan
4.K.Govindarajan
5.R.Kala
6.Srinivasan

.. Petitioners

Versus

Raman

.. Respondent

Civil Revision Petition filed Under Article 227 of Constitution of India, praying to set aside the order passed in I.A. No. 1 of 2022 in O.S.No.7080 of 2019 on the file of the XIX Additional City Civil Court, Chennai, dated 04.07.2023.

For Petitioners : Mr. S. Balaraman

For Respondent : Mr. AGP. Balakumar

for Mr. A. Prabakaran

ORDER

The petitioners have filed this revision petition to set aside the order , dated 04.07.2023 passed in I.A. No. 1 of 2022 in O.S. No. 7080 of 2019 on the file of the XIX Additional City Civil Court, Chennai.



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2. The learned counsel for the petitioners submitted that the petitioners, as plaintiffs, have instituted the suit and while filing the same, they have erroneously described the suit property as having an extent of 1602 sq.ft. but on the ground, the suit land measures only 735 sq. ft. It is further stated that a portion of the property measuring 1602 square feet was already sold to one Rajendiran during the year 1986 and without taking note of the same, the description of the property as well as its four boundaries were erroneously described in the plaint schedule. While so, when the plaintiffs/petitioners have filed the application in I.A. No. 1 of 2022 for amendment of the pleadings in the plaint, it was erroneously dismissed by the trial court. The said application was filed before commencement of the trial and therefore, the trial court ought to have allowed the said application to enable the plaintiffs to carry out necessary amendment of the plaint.

3. By way of reply, the learned counsel for the respondent submitted that there was no such encumbrance said to have been made in the property described in the plaint. As per the document the measurement of the land in question is only 1602 sq.ft. for which amicable partition has not been effected among the parties. While so, the reduction in measurement of the property sought for by the petitioners-plaintiffs is impermissible and contrary to the



pleadings made in the plaint. The application for amendment is clearly an after-thought intended to fill up the lacuna and he prays to dismiss the application.

4. On consideration of the rival submissions, the learned trial judge concluded that the amendment sought for by the plaintiffs is opposed by the defendant on the ground that the alleged reduction of the extent of the property on ground is not supported by any documentary evidence and the extent of property has been described in the plaint as per the documents made available. Having regard to such opposition, the trial Judge held that such dispute as to the extent of the property requires evidence to be let in and it can be decided only after trial. Accordingly, the trial court dismissed the application for amendment.

5. It reveals that the extent of the property on ground was not correctly stated by the plaintiffs in the plaint. However, after institution of the suit, it is now sought to be projected that on ground, only 735 sq.ft. is available. Admittedly, the description of the property as well as the extent available on the ground has been furnished on the basis of the records available. The claim of the plaintiffs with respect to reduction of land on



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ground is disputed by the defendants. While so, such disputed facts can be decided based on documentary evidence during trial. The learned trial Judge has rightly dismissed the application seeking amendment of the plaint and it needs no interference by this Court. Liberty is granted to the petitioners to raise such objection with regard if lesser extent of land available on ground, before the trial Court, at the time of trial. As the suit was of the year 2019, parties are Senior citizens, the learned trial Judge is directed to dispose of the case as early as possible.

6. Accordingly, this Civil Revision Petition is disposed of. Consequently connected Miscellaneous petition is closed. No costs.

02.11.2023

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation: Yes/No
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To

1. The XIX Additional City Civil Court, Chennai.
2. The Section Officer,
VR-Section, High Court of Madras.



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T.V.THAMILSELVI, J.
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