



C.R.P.No.3728 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2023

CORAM:

THE HONOURABLE Mrs.JUSTICE T.V.THAMILSELVI

C.R.P.No. 3728 of 2023
and
C.M.P. No. 23275 of 2023

1.Venkatesan
2.Ravikumar

.. Petitioners

Vs

1.The Thasildar,
Erode Road,
Perundurai.

2.The District Collector,
Perundurai Road,
Erode.

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 03.07.2023 made in I.A.No.04 of 2022 in O.S.No.157 of 2017 on the file of the District Munsif Court, Perundurai.

For Petitioners : Mr. M. Guruprasad

For Respondents : Mr. V. Jeevagiridheran,
Additional Government Pleader



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ORDER

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This Civil Revision Petition is filed challenging the impugned order passed in I.A.No.4 of 2022 in O.S.No.157 of 2017 on the file of District Munsif Court, Perundurai, the plaintiffs have preferred this revision.

2. Before the trial Court, the plaintiffs filed an application to amend the pleadings by including one more schedule of property as item 2. That application was objected by the defendants / Government Pleader by filing written statement, stating that the application was not filed in time and they might have vigilant to file such application much earlier. But after 5 years of the suit, the present application was filed, as such is not maintainable.

3. Considering both the submissions, the trial Judge held that there is no pleading in the affidavit in respect of denial of the property by the defendants. Therefore, the proposed amendment would change the entire character of the suit. Accordingly, the application was dismissed.



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4. Aggrieved by the said finding, the petitioners have filed this revision.

5. The learned counsel appearing for the petitioners submitted that in the year 2003, the plaintiffs' mother purchased the property but inadvertently, when they filed the suit omitted to pray for the relief of declaration. So necessity arose for them to amend the pleadings by including item 2 which was purchased by their mother.

6. Admittedly, in the year 2017 the suit was filed by the plaintiffs' to declare the mother of the plaintiffs was civilly dead. Defendants appeared and submitted their written statement and denied the plaintiffs' claim. Therefore, the plaintiffs' filed an application to amend the pleading by including the relief of declaration as their mother was purchased the property in the year 2003. If opportunity is not given to the plaintiffs' to prove their claim, their valid right to defend the case as well as to protect their property will be defeated. But the trial Judge failed to appreciate and erroneously dismissed the application. The respondents / defendants raised



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objection but however liberty is granted to them to file additional written statement before the trial Court.

7. According, the Civil Revision Petition is allowed by setting aside the fair and decreetal order dated 03.07.2023 made in I.A.No.4 of 2022 in O.S.No.157 of 2017 on the file of the District Munsif Court, Perundurai. Liberty is granted to the defendants to file additional written statement before the trial Court. No costs. Consequently, connected miscellaneous petition is closed.

06.11.2023

Index :Yes/No
Neutral Citation :Yes/No
AT

To
The District Munsif Court, Perundurai.



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T.V.THAMILSELVI, J.

AT

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