



C.R.P. No.3392 of 2019 and
C.M.P. No.22247 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2023

CORAM: JUSTICE N.SESHASAYEE

C.R.P. No.3392 of 2019 and
C.M.P. No.22247 of 2019

1.S.Kolandaivelu

Sampoornam (died)

2.Dhanabackiam

... Petitioners

Vs.

S.Krishnan

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 26.08.2019 made in I.A. No.03 of 2019 in O.S. No.267 of 2007 on the file of the Principal District Munsif, Tiruchengode.

For Petitioner : Mr.R.Marudhachalamurthy

For Respondents : S.Rajmakesh



C.R.P. No.3392 of 2019 and
C.M.P. No.22247 of 2019

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ORDER

This revision is preferred by the defendant challenging an order passed by the trial court in I.A. No.3 of 2019 in O.S. No.267 of 2007 permitting the amendment of a rough plan appended to the plaint.

2. The suit was laid for declaration of right of way and a mandatory injunction to remove certain obstruction over the same. Earlier, the plaintiff had filed an application for amending the plaint for correcting the width of the pathway from 2.5' to 2.75'. However there was an omission to carry out necessary amendment in the rough plan appended to the plaint. The trial of the case had concluded. At the time of final arguments, noticing the omission to carry out necessary amendment in the rough plan appended to the plaint, the plaintiff has taken out an application in I.A. No.3 of 2019 for correcting the same. This was resisted by the defendant. However, the trial court allowed the application. Hence this revision.

3. Heard both sides and perused the materials available on record.

4. Learned counsel for the revision petitioner/defendant submitted that the trial



C.R.P. No.3392 of 2019 and
C.M.P. No.22247 of 2019

court did not take into account the 10 years delay intervened in taking out the present application for amendment and the approach of the court appears to promote the negligence of the plaintiff.

5. The nature of amendemnt sought and granted was cosmetic in character, since it neither alters the character of the property nor has introduced any new remedies. What has been achieved through the first amendment in the body of the plaint is merely carried forward to the rough sketch filed along with the plaint.

6. To conclude, this civil revision petition is dismissed. Consequently, the connected CMP is closed. However, the learned counsel's pain over the inordinate delay in taking out this application is well appreciated and this can be compensated by a reasonable cost. Therefore, this court requires the respondent/plaintiff to pay a cost of Rs.5,000/-. The learned counsel for the revision petitioner, however submitted that the said sum may be usefully spent by procuring some books useful to the junior counsel. The said gesture of Mr.R.Marudhachalamurthy, learned counsel for the revision petitioner is appreciated and recorded.



C.R.P. No.3392 of 2019 and
C.M.P. No.22247 of 2019

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7. Accordingly, the learned counsel for the respondent/plaintiff is required to make available book or books totalling a minimum value of Rs.5,000/- for being distributed to the promising young advocates.

8. Post the matter on 24.04.2023 for reporting compliance.

12.04.2023

Asr

To

The Principal District Munsif, Tiruchengode



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C.R.P. No.3392 of 2019 and
C.M.P. No.22247 of 2019

N.SESHASAYEE, J.,

Asr

C.R.P. No.3392 of 2019 and
C.M.P. No.22247 of 2019

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