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C.R.P. Nos.3863 & 3865 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2023

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THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.Nos.3863 & 3865 of 2023

and

C.M.P. No. 23866 of 2023

M.Raman

... Petitioner in
both C.R.P.s

Vs

- 1 B.Mohamad Afsar
- 2 A.B.Ashfaq Ahmad Sahib
- 3 Kalaiselvi
- 4 M.Anandhan

... Respondents in
both C.R.P.s

PRAYER in C.R.P.No. 3863 of 2023 : Civil Revision Petition is filed under Art.227 of Constitution of India, praying to set aside the fair and decreetal order dated 24.07.2023 passed in I.A.No.7 of 2022 in O.S.No.25 of 2014, on the file of learned District Munsif Court, Vaniyambadi.

PRAYER in C.R.P.No. 3865 of 2023 : Civil Revision Petition is filed



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under Art.227 of Constitution of India, praying to set aside the fair and decreetal order dated 24.07.2023 passed in I.A.No.6 of 2022 in O.S.No.25 of 2014, on the file of learned District Munsif Court, Vaniyambadi.

For Petitioner in
both C.R.P.s : Mr.N.Manoharan

COMMON ORDER

Challenging the impugned orders passed in I.A.Nos.6 and 7 of 2022 in O.S.No. 25 of 2014 passed by the learned District Munsif, Vaniyambadi, the revision petitioner/plaintiff preferred these Civil Revision Petitions.

2. Since the relief claimed challenging the impugned orders passed by the trial judge, notice to the respondents is dispensed with.

3. Before the trial court, the Revision Petitioner/plaintiff filed the applications in I.A.Nos.6 and 7 of 2022 to reopen and to amend the pleadings stating that in the description of property, the extent of suit property was mistakenly mentioned as 0.53 cents, but on the other hand, the petitioner is entitled to the property on ground is only 0.38 cents. Hence, he filed the said application to amend the description of property and also to reopen the case, since because the evidence was already completed. That applications were resisted by the defendants stating that during the trial, he



gave evidence as if the property for 0.53 cents and after completion of evidence, he wanted to reduce the extent as 0.38 cents, as such is not maintainable. On considering both side submissions, the trial judge held that after completion of evidence, he wanted to correct the extent as 0.38 cents after more than 9 years later, as such is not maintainable. Accordingly, the trial judge dismissed those applications. Challenging the said findings, the plaintiff preferred these Civil Revision Petitions.

4. The learned counsel for Revision Petitioner would submit that at the time of preferring the plaint, earlier counsel of plaintiff had erroneously mentioned the extent as 0.53 cents, but in the suit property on ground 0.38 cents only entitled to the plaintiff. Therefore, he wanted to amend the description of property in the suit. If opportunity is not given to him, his valuable right claimed over the property will be defeated on that ground. Hence, he prayed to set aside the findings of trial judge.

5. Considering the fact that before the trial court, after completion of P.W.1 evidence, he came forward with those applications to reopen and to amend the description of property, in fact, he is more than 70 years old and in the year of 2014, he filed a suit for declaration and other consequential



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reliefs. At the time of preferring the plaint, the property is described as 0.53 cents, but now he contend that 0.38 cents belong to him. If opportunity is not given to the plaintiff to amend the description of property, he will be put into much hardship and it will also lead to multiplicity of proceedings. Hence, to avoid further complications, this court is inclined to set aside the findings of the trial judge in I.A.Nos.6 and 7 of 2022 in O.S.No. 25 of 2014. Accordingly, these Civil Revision Petitions are allowed and both the applications are ordered to be allowed. Liberty is granted to the defendants to file their additional written statement, if any and thereafter, the trial judge is directed to complete the trial and dispose the case within a period of three months from the date of receipt of copy of this order. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

07.11.2023

Index : Yes/No

Speaking Order : Yes/No

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To

District Munsif, Vaniyambadi.

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T.V.THAMILSELVI, J.

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