



C.R.P.No. 4640 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2023

CORAM:

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No. 4640 of 2023

Venkatesan

.. Petitioner

Vs

1.Srinivasan

2.Nagalakshmi

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set order the order passed in I.A.No.02 of 2023 in O.S.No.365 of 2019 in O.S.No.536 of 2013(old no) dated 02.09.2023 on the file of the District Munsif cum Judicial Magistrate, Veppenthattai, Perambalur District.

For Petitioner : Mr. K. Sanjayan

ORDER

This Civil Revision Petition is filed challenging the impugned order passed in I.A.No.2 of 2023 in O.S.No.365 of 2019, the plaintiff has preferred this revision.



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2. Before the trial Court, the plaintiff / petitioner herein filed an application to amend the name of the party as well as pleadings. That application was dismissed by the trial Judge stating that at the time of P.W.1 cross examination, the amendment application was filed, as such is not permissible. Aggrieved by the said finding, the plaintiff has preferred this revision.

3. The learned counsel for the petitioner submits that after change of vakalat filed by the counsel and found that there was a mistake in averments in the plaint. Instead of stating as 'aunty' erroneously stated as 'sister' of the petitioner. In respect of description of the property, there was some mistake and want to correct the same. Hence, the plaintiff / petitioner herein filed the application.

4. On perusal of the records, the plaintiff / petitioner herein filed the suit for bare injunction in the year 2013 and immediately, written statement was also filed. Now the trial also commenced, at that time the application was filed. On seeing the proposed amendment, it would not



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change the character of the suit but the trial Judge failed to consider it. If opportunity is not given to the petitioner, his valuable right to defend the case will be defeated. Therefore, the order passed by the trial Judge in I.A.No.2 of 2023 in O.S.No.365 of 2019 is set aside. Liberty is granted to the defendants / respondents herein to file additional written statement, if any within three weeks from the date of receipt of copy of this order. Thereafter, the trial Judge is directed to proceed and dispose the case as expeditiously as possible, since the defendants are senior citizens.

5. In the result, the Civil Revision Petition is allowed. No costs.

07.12.2023

Index :Yes/No

Neutral Citation :Yes/No

AT

To

The District Munsif cum Judicial Magistrate,
Veppenthattai, Perambalur District.

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T.V.THAMILSELVI, J.

AT

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