



C.R.P(MD)No.288 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.02.2023**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.288 of 2023

and

C.M.P(MD)No.1385 of 2023

R.Bharathi

... Petitioner/
Petitioner/Plaintiff

Vs.

1.Janab Mohammed Salavudeen

2.Janab A.Jahir Hussain

... Respondents/
Respondents/Defendants

PRAYER : Civil Revision Petition is filed under Article 227 of Constitution of India, to call for the records in pertaining to the order and decreetal order dated 04-11-2022 passed in I.A.No.117 of 2022 in O.S.No.353 of 2010 on the file of the Additional Sub Court, Thanjavur and set aside the the same by allowing the present Civil Revision Petition.



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For Petitioner : Mr.R.Rajaraman

ORDER

The plaintiff is the revision petitioner.

2. The present revision petition has been filed challenging an order, dismissing the application filed by the plaintiff under Order 6 Rule 17 of Code of Civil Procedure. The plaintiff had filed a suit for damages claiming a sum of Rs.1,85,000/- (Rupees One Lakh and Eighty Five Thousand only) from the defendants on the ground that after the defendants had sold the property, the actual extent is not found on ground. Therefore, the plaintiff had claimed damages for the lesser extent. The suit was filed in the year 2010. At the instance of the revision petitioner, an Advocate Commissioner was appointed and he had filed a report on 04.06.2019. As per the Commissioner's Report, the deficit area was not 1100 sq.ft., but it was 1277 sq.ft.



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3. This Commissioner's Report has prompted the plaintiff to file

I.A.No.117 of 2022 to amend the plaint to seek more damages from the defendants. A perusal of the amendment application clearly indicates that the plaintiff would like to amend the body of the plaint and the prayer of the plaint without amending the schedule of property, details of valuation or payment of excess court fee. That apart, the Commissioner has filed a report on 04.06.2019 and no proper reasons have been assigned for filing the present application after a period of 3 years.

4. It is a specific case of the plaintiff that after purchasing the property from the defendants, he had measured the property and found deficit extent. In such an event, the plaintiff cannot now rely upon the Commissioner's Report and seek to establish that there is more deficit in the land that was conveyed by the defendants. That apart, the suit is of the year 2010 and the present application has been filed in the year 2022 after a period of 12 years.



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5. In view of the aforesaid reasons, I do not find any merits in the revision petition. Hence, this Civil Revision Petition stands dismissed.

No costs. Consequently, connected Civil Miscellaneous Petition is closed.

08.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

- 1.The Additional Sub Court,
Thanjavur.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR ,J.

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Order made in
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