



REV.APLC.(MD)Nos.123 and 124 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

REV.APLC.(MD)Nos.123 and 124 of 2015

S.Thangaswamy

... Petitioner in both petitions

-VS-

1.B.Sivajothi

2.B.Ananthammal

3.Nisha Rajapudheen

4.Punitha

... Respondents in both petitions

COMMON PRAYER: Review Applications are filed under Order 47 Rule 1 and 2 r/w Section 114 of the Civil Procedure Code to review the order dated 24.06.2015 passed by this Court in C.R.P.(MD)Nos.2202 of 2013 and 141 of 2010, respectively.

In both petitions:

For Petitioner : Ms.Jessi Jeeva Priya

For Respondents : Mr.R.Sevugaraja

COMMON ORDER

These present Review Applications have been filed seeking to review the order dated 24.06.2015.

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2.The revision petitioner herein as a plaintiff filed O.S.No.249 of 1998 before the II Additional District Munsif, Nagercoil for the relief of specific performance of a sale agreement dated 01.01.1988. As per the said sale agreement, the property that was sought to be conveyed is located in New Survey No.556/3. Since the defendant remained exparte, a decree came to be passed on 17.11.2003.

3.After passing of the decree, the plaintiff came to know that the survey number is not S.No.556/3 and it is S.No.555/5. Hence, he filed I.A.Nos.523 and 524 of 2004 to amend the plaint and the decree to incorporate new Survey No.555/5 in the place of old survey number S.No. 556/3. These applications came to be dismissed on 26.04.2005. Challenging the same, the review applicant filed Revision Petitions. The learned Judge has dismissed the revision petitions on the ground that any amendment with regard to survey number would go to the root of the matter. Challenging the same, these review applicants are filed.



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4.The learned counsel for the review applicant contended that they are not substituting the old survey number, but only attempting to correlate the old survey number with the new survey number, which has been erroneously mentioned.

5.Per contra, the learned counsel for the respondent/defendant contended that any change in survey number, after passing of a decree would alter the entire cause of action and nature of the suit and therefore, it cannot be permitted.

6.I have carefully considered the submissions made on either side and perused the material records.

7.On perusal of the sale agreement dated 01.01.1988, it is seen that the survey number is mentioned as S.No.556/3 in the agreement. Hence, without seeking to rectify the said sale agreement, the plaintiff cannot attempt to amend the suit schedule and the decree. For invoking the power of review, there should be an error apparent on the face of the record. This



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Court does not find that any one of the ingredients as contemplated under Order 47 Rule 1 of CPC are satisfied.

8.In view of the aforesaid observations, there are no grounds to review the order made in the Revision Petitions. Accordingly, these Review Applications are dismissed. However, the review applicant is entitled to proceed with execution of the decree as it is, if he is so advised.

No costs.

05.09.2023

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

The II Additional District Munsif, Nagercoil



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R.VIJAYAKUMAR,J.

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