



C.R.P(MD)No.616 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: **27.02.2023**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.616 of 2020

and

C.M.P(MD)No.4006 of 2020

Mariammal

... Petitioner/Petitioner/
Plaintiff

Vs.

Samiyadian (Died)

... Defendant

1.Maragatham

2.Saranya

3.Uma

4.Chidra lakshmi

5.Selvaraj

... Respondents/Legal heirs of
Defendant

*(Cause title accepted vide Court order, dated
12.08.2020 made in C.M.P(MD)SR.No.37153 of
2020)*

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside Fair and Decreetal Order Dated 19.12.2019 in I.A.No.403 of 2019 in O.S.No.70 of 2014 made on the file of the Sub Court, Kovilpatti.



C.R.P(MD)No.616 of 2020

For Petitioner : Mr.B.Rajesh Saravanan

For Respondents : No Appearance

ORDER

The present revision petition has been filed by the plaintiff in a suit for declaration of title and permanent injunction, challenging an order of dismissal of an application for amendment of plaint.

2. In Paragraph No.13 of the plaint, the plaintiff has specifically mentioned that he has put up a cattle shed and he is enjoying the suit schedule properties. However, the cattle shed has not been mentioned in the schedule of property. Therefore, the plaintiff had filed I.A.No.403 of 2019 to amend the schedule of property so as to include the cattle shed. The said application was resisted by the defendant on the ground that it will change the character and nature of the suit and it will be against the pleadings of the petitioner. The trial Court after considering the arguments on either side had dismissed the application on the ground that the plaintiff has to establish his possession based on oral and documentary evidence and non-mentioning of cattle shed in the schedule of property will not in any way affect the case of the plaintiff. Challenging the same, the present revision petition has been filed.



C.R.P(MD)No.616 of 2020

3. A careful perusal of the plaint indicates that in Paragraph No.13, the plaintiff has specifically mentioned about the cattle shed. However, by mistake, it has not been mentioned in the schedule of property. By inclusion of cattle shed in the schedule of property, the cause of action will not change. Therefore, the trial Court was not right in dismissing the said application.

4. Therefore, this Civil Revision Petition stands allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

27.02.2023

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

gbg

To

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



C.R.P(MD)No.616 of 2020

R.VIJAYAKUMAR ,J.

gbg

Order made in
C.R.P(MD)No.616 of 2020

27.02.2023