



C.R.P(MD)No.1532 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.06.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.1532 of 2023

and

C.M.P.(MD)No.7559 of 2023

S.K.Sukumar

...Petitioner

Vs.

Manikannan

...Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order and decretal order dated 13.04.2023 passed in I.A.No.5 of 2023 in O.S.No.272 of 2019 on the file of the Principal District Court, Dindigul.

For Petitioner	: Mr.B.Arvind Srevatsa
For Respondent	: Mr.S.Ramesh

ORDER

This petition has been filed to set aside the order passed in I.A.No. 5 of 2023 in O.S.No.272 of 2019 dated 13.04.2023, on the file of the learned Principal District Judge, Dindigul.



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2.The petitioner is the defendant in O.S.No.272 of 2019 before the Principal District Court, Dindigul. After the trial commenced, the respondent/plaintiff filed an application under Order 6 Rule 17 of CPC to amend the plaint by including the first floor to the suit schedule property in consonance with the sale agreement dated 11.10.2019.

3.The specific case of the petitioner is that the defendant is the above suit and that the Court has allowed the amendment contrary to proviso to Rule 17 Order 6 of CPC. It is only after the respondent/plaintiff witness was cross examined, I.A.No.5 of 2023 was filed under Order 6 Rule 17 of CPC to amend the plaint by including the first floor to the suit schedule property and that the Court has wrongly exercised its discretion contrary to proviso Rule 17 Order 6 of CPC.

4.I have heard the learned counsel appearing for the petitioner and learned counsel for the respondent. I have also perused the aforesaid agreement.

5.The above suit has been filed on the strength of the aforesaid agreement to amend the schedule to the plaint. The petitioner has by



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oversight failed to include the first floor. The impugned order itself records that the application has been filed by the respondent after the discrepancy was pointed out during cross examination of the petition. Whether the respondent is indeed entitled for the relief of specific performance of the agreement dated 11.10.2019 is a matter to be decided by the Court. The amendment that has been allowed cannot be questioned as the respondent failed to add the same by oversight in the plaint. There is no merits to challenge the impugned order dated 13.04.2023, allowing the application for amendment. Merely because it was filed after the commencement of the trial. The Civil Revision Petition is liable to be dismissed.

6.Considering the fact that the amendment to plaint which has been allowed, under the impugned order, which has been sustained by disposing this Civil Revision Petition, liberty is given to the petitioner to file additional Written Statement, if any within a period of 30 days from the date of receipt of a copy of this order. Thereafter, the Court shall frame additional issues and proceed in accordance with law and shall endeavour to dispose of suit as expeditiously as possible preferably within a period of nine months thereafter.



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C.SARAVANAN,J.

Mrn

7. Therefore, this Civil Revision Petition stands accordingly disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

28.06.2023

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

To

1. The Principal District Judge, Dindigul.

2. The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

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