



*C.R.P(MD)No.1368 of 2019*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **26.07.2023**

CORAM

**THE HON'BLE MR.JUSTICE C.KUMARAPPAN**

**C.R.P(MD)No.1368 of 2019**

K.Johnsondavid

...Petitioner/Petitioner/  
Plaintiff

Vs.

A.Kandasamy

...Respondent/Respondent/  
Defendant

**PRAYER:** Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the fair and decreetal order dated 24.04.2019 passed in I.A.No.11 of 2019 in O.S.No.3 of 2008 on the file of the learned I Additional District Judge, Tuticorin.

For Petitioner : Mr.M.P.Senthil

For Respondents : Mr.T.S.R.Venkatramana

**ORDER**

This civil revision petition has been filed against the order passed by the learned I Additional District Judge, Tuticorin in I.A.No.11 of 2019 in O.S.No.3 of 2008, dated 24.04.2019.



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2. The petitioner is the plaintiff before the Trial Court.

3. The brief facts which give rise to the filing of the instant civil revision petition is that the petitioner/plaintiff has filed a suit for specific performance in O.S.No.3 of 2008, which was ultimately decreed on 02.09.2010 and confirmed by the Hon'ble Supreme Court in S.L.P.No. 24526 of 2017 vide order, dated 21.08.2017. It appears that thereafter the petitioner has filed an execution petition so as to get the sale deed registered in his favour. At this juncture, through an enquiry from Sub Registrar Office, he came to know that registration could be done only after making certain amendments in the description of the property. Hence, he filed an application before the Court below. The Court below after hearing either side has ultimately dismissed the application on the ground that the amendment sought for by the plaintiff would change the nature of the suit.

4. Aggrieved with the order of the learned Trial Judge, the petitioner/plaintiff has come up with this civil revision petition.



5. The learned counsel for the petitioner invited the attention of this Court in respect of his affidavit and would contend that, when the execution petition was posted on 16.10.2008 for submitting a fair sale deed, the petitioner/plaintiff was enquired in the Sub-Registrar Office with a draft sale deed, where, he was informed that the registration is now become online. Therefore, so as to register the sale deed, current survey number and boundary to be mentioned, which necessitated him to file the amendment application under Section 152 of C.P.C.

6. The learned senior counsel appearing on behalf of the respondent invited the attention of this Court about Section 152 of C.P.C. and would strenuously submit that unless there is an arithmetical mistake or error arising from an accidental slip or omission, there could not be any amendment to the judgment or decree.

7. From the narration of the affidavit, this court could not find any facts so as to bring the amendment which sought for under Section 152 of C.P.C. And what they plead is only because of upgrading of the registration methodology through online, there is a disruption to the existing procedure and the registration could not be done with the existing description of property. Such a ground is not come within the



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purview of Section 152 of C.P.C, as admittedly no error in the description of property. At this juncture, the learned counsel for the petitioner relied on the following judgment in the case of ***Sarath Kakumanu Vs Veerappan Arunachalam and others*** reported in **2022 (5) CTC 942** and would submit before this Court that unless the survey number and boundary are amended in the decree, the same could not be registered before the Sub-Registrar Office.

8. Except the *ipsi dixit* of the petitioner, there are no documents available before this Court to prove the said factum. It is also pertinent to mention here that the petitioner has not even filed the fair sale deed before this Court and the sale deed has not at all submitted before the Sub-Registrar Office for registration. Therefore, this Court is of the view that the apprehension of the petitioner is too premature to file such an application. However, liberty is given to the petitioner to take appropriate proceedings according to law.

9. Considering the longevity of the case, the learned Trial Judge is directed to dispose of the E.P. as expeditiously as possible preferably within a period of 6 months from the date of receipt of copy of this order. Since this Court has arrived at a finding that this application is



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premature, to avoid any technicalities this Court is of the view that the very finding of the learned Trial Judge in the impugned order is liable to be set aside. Further, in the event of revision petitioner is taking any appropriate action according to law, the finding of the learned Trial Judge will not stand in their way.

10. In the result, this Civil Revision petition stands **disposed of** with the liberty as indicated above. No costs.

**26.07.2023**

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

1.The learned I Additional District Judge,  
Tuticorin.

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



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**C.KUMARAPPAN,J.**

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