



C.R.P(MD)No.1108 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.07.2023**

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

C.R.P(MD)No.1108 of 2018

and

C.M.P(MD)No.4763 of 2018

Natarajan

...Petitioner/Petitioner/
Plaintiff

Vs.

1.Dhanushkodi

2.Pandian

...Respondents/Respondents/
Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to pass an order setting aside the fair and executable order dated 19.04.2018 passed in I.A.No.135 of 2018 in O.S.No.41 of 2015 on the file of the District Munsif Court, Nilakottai.

For Petitioner : Mr.J.Barathan

For Respondents : Mr.B.Babu

ORDER

This civil revision petition has been filed against the order passed by the District Munsif Court, Nilakottai in I.A.No.135 of 2018 in O.S.No.41 of 2015 dated 19.04.2018.



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2. The petitioner is the plaintiff before the District Munsif Court, Nilakottai. The petitioner/plaintiff has filed a suit in O.S.No.41 of 2015 for a declaration to declare the settlement deed, dated 29.10.2012 is null and void.

3. When the said suit was pending, it appears that the petitioner/plaintiff has filed an amendment application in I.A.No.135 of 2018, before the Trial Court, so as to include the new Survey.No. 156/2A2 in addition to the existing survey number. The reason for seeking such amendment by the petitioner/plaintiff is that the respondents/defendants have obtained patta for S.No.156/2A2 based upon the settlement deed which is under challenge in the suit. However, the learned Trial Judge after hearing both parties, has ultimately dismissed the application on the ground that the petitioner did not produce any documents as pleaded in the affidavit to prove that the survey number has been changed from 156/2A to 156/2A2, and the learned trial Judge has also found that the petitioner has failed to prove the alleged further sub division.

4. At this juncture, the learned counsel for the petitioner has invited the attention of this Court in respect of the counter statement filed



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by the respondents herein in I.A.No.135 of 2018, wherein, in Paragraph No.5, the respondents herein have admitted in categorical terms, that the disputed settlement deed was executed only in respect of S.No.156/2A2. Therefore, when the prayer sought for in the suit is to set aside the settlement deed, dated 21.09.2012, the suit property inexorably should be the same property as found in the disputed settlement deed.

5. Therefore, there is a manifest error in dismissing the amendment application. Hence the same is liable to be interfered with. Therefore, this Court arrives at a irrefutable conclusion that the amendment sought by the petitioner/plaintiff has to be allowed.

6. In the result, the civil revision petition stands allowed thereby allowing the amendment application in I.A.No.135 of 2018 as prayed for. No costs. Consequently, the connected miscellaneous petition is closed.

07.07.2023

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

WEB COPY

- 1.The District Munsmif Court,
Nilakottai
- 2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN,J.

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