



C.R.P(MD)No.1707 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.07.2023**

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

C.R.P(MD)No.1707 of 2018

and

C.M.P(MD)No.7356 of 2018

M.Robert

...Petitioner/Respondent/
Defendant

Vs.

1.S.Gnanaprakasi

2.M.Sicily

3.M.Alphonsal

4.M.Padhmini

5.M.Viagulam

6.M.Vimala

Respondents 1 to 6 represented by their Power Agent,

G.Philavendran

...Respondents 1 to 6/
Petitioners 1 to 6/
Plaintiffs 1 to 6

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 17.04.2018 passed in I.A.No.33 of 2018 in O.S.No.209 of 2016 on the file of the Principal District Munsif Court, Padmanabhapuram, Kanyakumari District within a stipulated period fixed by this Court.



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For Petitioner : Mr.K.Rajeshwaran

For Respondents : Mr.C.Godwin

ORDER

This civil revision petition has been filed against the order passed by the learned Principal District Munsif Judge, Padmanabhapuram, Kanyakumari District in I.A.No.33 of 2018 in O.S.No.209 of 2016, dated 17.04.2018.

2. The respondents/plaintiffs have filed a suit for a relief of declaration and for recovery of possession and for consequential permanent injunction.

3. The facts which give rise to the filing of the civil revision petition are that the plaintiffs have filed an amendment application in I.A.No.1016 of 2016 to amend the measurements of the suit property, and also for the inclusion of certain survey numbers which were omitted inadvertently.



4. The petitioner herein has objected the amendment application on the ground that if the amendment is allowed then it would change the nature of the suit.

5. After hearing both sides, the learned Trial Judge has ultimately allowed the application on the ground that unless the amendment is allowed, the issue between the parties cannot be completely adjudicated. The learned Trial Judge has also found that such amendment would not alter the nature of the suit.

6. Aggrieved with the order of the learned Trial Judge, the defendant has filed the civil revision petition on the ground that the plaintiffs/respondents were attempting to include new survey numbers and to fill up the lacuna.

7. The learned counsel for the respondents herein submits that the impugned amendment application has been filed in pursuance of the Commissioner's report, when he came to know about some change in the survey numbers and area of certain properties. Therefore, amendment is very much essential. In support of his submission, he relied on the judgment of the Hon'ble Supreme Court in the case of **Balwant Singh Vs**



Bachan Singh and others reported in **2003 (3) CTC 179**. The relevant portion of the judgment is extracted hereunder:

"7. The above amendments sought for by the appellant were in relation to plea regarding a Will and certain corrections of some Khasra numbers. If really the suit was for declaration of title, we do not think the plea based on a Will will alter the nature of the case so as to take such a plea out of the ambit of Civil Procedure Code.

8. Certain mistakes have been occurred in describing the Khasra numbers and the appellant wanted to correct them. Whether the numbers given were correct, could have been adjudicated in the course of the trial and not necessarily at the stage of deciding the application for amendment. The trial Court proceeded even to find out whether the plea of execution of a Will in favour of the appellant was correct and the description of the property with reference to Khasra numbers was proper information or not. It was not the stage at which merits of the case could have been considered by the Trial Court. In the circumstances the order made by the trial Court as affirmed by the High Court in Revisional Jurisdiction is set aside and the application filed by the appellant shall be allowed subject to payment of Rs. 5,000/- as costs to the respondents which shall not be costs in the cause. Let such payment of money be paid before the amendment are carried out by the appellant. The amendments shall be carried out within a period of one month from today. The appeal stands allowed accordingly."

(emphasis supplied by this Court)

8. Keeping in mind with the above ratio, if we peruse the records, it appears that the very amendment application has been filed in pursuance of the Commissioner's report as rightly submitted by the learned counsel for the respondents. Therefore, it is imperative to correct



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the mistakes in suit property. Therefore, unless these amendments are allowed, the issue between both the parties could not be effectively adjudicated. Further as held in the above referred judgment, the corrections can be gone into during trial. Therefore, in the interest of the justice, the Trial Court has allowed the application. This Court do not find any justification to interfere with the well considered order.

9. At this juncture, the learned counsel for the respondents herein seeks indulgence of this Court for early disposal of the suit. Considering the nature of the suit, the learned Trial Judge is directed to dispose of the suit as expeditiously as possible preferably within a period of 6 months from the date of receipt of the copy of this order. It is incumbent upon both the parties that they should co-operate with the Court, for early disposal.

10. In the result, this civil revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

13.07.2023

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

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- 1.The Principal District Munsif Court,
Padmanabhapuram,
Kanyakumari District.
- 2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN,J.

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