



CRP(MD).No.2005 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.08.2018

CORAM

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

CRP(NPD)(MD).No. 2005 of 2018 and
CMP(MD).No.8839 of 2018

Subramanian

Petitioner

Vs.

1.S. Thiripurasundari
2.K.Athilakshmi
3.N.Vimala
4.A.Krishnamoorthy
5.R.Padma
6.R.Ayyachamy
7.R.Anantha Ramakrishnan
8.R.Latha
9.R.Lakshmi
10.R.Avudaithai
11.S.Veluchamy
12.P.Manikandan
13.M.Subramanian

Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the
Constitution of India to set aside the fair and decreetal order, dated



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07.10.2017 in I.A.No.779 of 2017 in O.S.No.225 of 2004 on the file of the

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District Munsif Cum Judicial Magistrate, Sivagiri.

For Petitioner : Mr.V. Sasikumar

For Respondents : No appearance
for R1 to R3 and R5 to R13
Mr.J. Lawrance for R4

ORDER

This Civil Revision Petition has been filed against the fair and decretal order, dated 07.10.2017 made in I.A.No.779 of 2017 in O.S.No. 225 of 2004 on the file of the District Munsif Cum Judicial Magistrate, Sivagiri.

2. The revision petitioner herein is the petitioner / plaintiff before the trial Court. The respondents herein are the respondents / defendants before the Court below.

3. The learned counsel appearing for the petitioner would vehemently contend that he was residing in Sankagiri and hence, he did not aware about exact SF number and four boundaries. Therefore, he has



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given a wrong SF number and wrong four boundaries. Hence, the same needs to be amended. Hence, he prayed to allow this Civil Revision Petition so as to amend the plaint.

4. Per contra, learned counsel appearing for the respondents would submit that, the suit has already been dismissed by the Court below on 31.10.2022 and he would also submit that there was no due diligence shown by the petitioner when he filed a petition for amendment after the commencement of the trial and hence, there is no merit in the application and therefore, the trial Court has rightly dismissed the application and prayed for dismissal of this Civil Revision Petition.

5. I have given my anxious consideration of the submissions of the learned counsel appearing on either side and perused the materials available on record.

6. It is an admitted fact that the petitioner has filed this application only at the stage of the examination of witnesses. Though the suit is of the year 2004, as rightly observed by the Court below after a period of 13 years the petitioner has filed an application to amend the suit



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schedule. The learned counsel appearing for the petitioner contended that the petitioner did not know about the correct four boundaries and SF Number since he was residing outside. The said reason cannot be the due diligence as mentioned under Order VI Rule 17 proviso of CPC. Further, the amendment sought for by the petitioner would change the four boundaries as well as SF number. Hence, there is every possibility for changing the nature of suit property. Therefore, such an amendment cannot be done after the commencement of trial and the same would cause prejudice to the respondents.

7. In the result, this Court could not find any material or any grounds to interfere with the well considered order of the Court below. Hence, this Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

16.08.2023

Index : Yes / No
Internet : Yes / No
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To

The District Munsif Cum Judicial Magistrate, Sivagiri.



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C.KUMARAPPAN, J.,

trp

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