



C.R.P.(MD)No.1759 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 19.07.2023

CORAM:

THE HONOURABLE **MR.JUSTICE C.KUMARAPPAN**

C.R.P.(MD)No.1759 of 2017

and

CMP(MD)No.9478 of 2017

1.Lakshmi

2.Lakshmi

3.Gurusamy

... Petitioners

Vs.

1.Karuppiah

2.Pushpam

3.Guruvammal

4.Kanchana Devi

5.Jayaprakash

6.Sumathy

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records relating to the Fair and Decretal order dated 05.07.2017 made in I.A.No.91 of 2017 in O.S.No.56 of 2014 on the file of



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the District Munsif Court, Devakottai and set aside the same.

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For Petitioners : Mr.J.Anandkumar

For Respondents : Mr.S.Ravi for R1 & R3

: Mr.R.Balasubramanian for R5 & R6

: No appearance for R2 & R4

ORDER

This Civil Revision Petition has been filed against the Fair and Decretal order dated 05.07.2017 made in I.A.No.91 of 2017 in O.S.No.56 of 2014 on the file of the District Munsif Court, Devakottai.

2. The revision petitioners are the plaintiffs before the trial Court. It appears that the petitioners herein have filed the suit for partition and for permanent injunction. In which, the defendants filed the written statement stating that some of the property of one Mariappan have not been included in the plaint. Therefore, the suit is to fail for partial partition. It appears that thereafter, the plaintiffs filed an amendment application in I.A.No.885 of 2015 to include the suit property, which was mentioned in the written



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statement and the same was allowed on 31.03.2016.

3. After amendment, the petitioners filed another Interlocutory Application in I.A.No.91 of 2017, so as to amend the value of the suit, and Court fee. However, the respondents/defendants have objected the application on various grounds including the value of the property. However, the learned trial Judge, after considering both side submission, has allowed the amendment in respect of the first and third proposed amendments and has dismissed the application with regard to the second and fourth amendments. Aggrieved by the same, the plaintiffs are before this Court.

4. The learned counsel for the petitioner would submit that though the learned trial Judge has accepted the reasons assigned by the petitioner and allowed the amendments in respect of the first and third proposed amendments, however dismissed the proposed amendments in respect of the serial Nos.2 and 4, the reasons assigned by the trial Judge is that there is no corresponding reference in Paragraph No.13 of the plaint. The learned counsel would further submit that the findings of the trial



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Judge is erroneous, and submit that what they wanted is only an amendment in respect of the value of the property and payment of Court fee and such amendment will not alter the nature of the suit.

5. The learned counsel for the respondents strongly object this application on the ground that the petitioners have been filing one petition after another so as to delay the proceedings.

6. I have considered the rival submissions made on either side and perused the materials available on record.

7. From the perusal of the records, it is apparent that the amendment, which is sought for by the petitioner, is consequential in nature and only in respect of value of the suit property and corresponding payment of Court fee. While perusing the impugned order, when the trial Judge has permitted amendment in respect of the first and third proposed amendments, the reasons assigned by the learned trial Judge that there is no corresponding entry in paragraph No.12 will not be a good reason for dismissal of the application. Because, the non mentioning of the value of



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the property in the body of the plaint, other than the valuation column will make no difference.

8. Therefore, this Court is of the firm view that the order passed by the learned trial judge is to be interfered with, otherwise, very purpose of the valuation could not be done effectively.

9. In the result, this Civil Revision Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

19.07.2023

NCC : Yes/No
Index : Yes/No

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To

1. The District Munsif Court,
Devakottai
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN, J.

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