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C.R.P(MD).No.1076 and 1078 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P(MD).Nos.1076 and 1078 of 2023

and

CMP(MD)No.5048 of 2023

C.R.P(MD).No.1076 of 2023

A.S.Raseed

... Petitioner/Respondent/1st Defendant
(In both Petitions)

Vs.

1. Mariyammal
2. Ramasamy
3. Nagarathinam
4. Ramajayam
5. Solairaj
6. Bose
7. Karthikairaj
8. Dharmar
9. Nagarathinam
10. Kathiresan
11. Gunasekaran

... Respondents 1 to 11/Petitioners/Plaintiffs

(Respondents 3 to 9 are represented through their power agent 10 & 11 respondents herein)

12. Bakeer Mohammed

... 12th Respondent/2th Respondent /2nd Defendant

(12th respondent herein is given up in this Civil Revision Petition)
(In both Petitions)



C.R.P(MD).No.1076 and 1078 of 2023

COMMON PRAYER:- These Civil Revision Petitions have been filed under Article 227 of the Constitution of India, to call for the records pertaining to the orders dated 11.07.2022 and consequential orders dated 22.07.2022, passed in I.A.Nos.181 & 182 of 2020 in O.S.No.10 of 2017 on the file of the learned District Munsif, Paramakudi and set aside the same.

(In both Petitions)

For petitioner : Mr.R.R.Thamothar Raj

COMMON ORDER

These Civil Revision Petitions have been filed by the petitioner to set aside the orders passed by the learned District Munsif, Paramakudi in I.A.Nos.181 & 182 of 2020 in O.S.No.10 of 2017 dated 22.07.2022.

2.The petitioner in both petitions is one and the same. The petitioner is the first defendant in the suit. The suit was filed for a permanent injunction and for a declaration. The petitioner is aggrieved by the impugned order passed by the learned District Munsif, Paramakudi in I.A.Nos.181 & 182 of 2020 in O.S.No.10 of 2017 dated 22.07.2022.

3.The specific case of the petitioner is that there was a discrepancy in the suit schedule property in the description schedule of the property. In the



said suit, the petitioner has filed written statement. Evidence was also recorded. Case was argued on 26.11.2020 and it was listed for pronouncing judgment on 30.11.2020. On that day, the respondents 1 to 11 herein filed I.A.Nos.181 & 182 of 2020 for reopening of the case and for amending the plaint.

4.The learned counsel for the petitioner submits that the impugned order is conflict under Order VI Rule 17 & 18 of CPC. He has placed reliance on a decision of the Karnataka High Court in **Rabiya Bi Kassim Vs The Country Wide** reported in **2004 (4) Kar LJ 189**. It is submitted that the learned District Munsif, Paramakudi, has committed a grave error in allowing the applications for amendment and for reopen the case. Particularly, after the case was reserved for pronouncing judgment and decree.

5.I have considered the argument advanced by the learned counsel for the petitioner.

6.In my view, the respondents 1 to 11/plaintiffs are guilty of delay in filing an application to amend the plaint. Nevertheless, the Court have taken a different view by allowing the amendment petitions even at the appellate



stage. Such amendment are being permitted as the intention of the Court is only to arrive at the truth. It is noticed that 3 years have almost lapsed since the case was listed for pronouncing judgment. Now, a new Presiding Officer would have assumed the office as the District Munsif, Paramakudi. Challenge to the impugned orders in 2023 are also belated it was passed as on 22nd July 2022. The applications have been allowed on payment of cost of Rs.2,000/- to the petitioner.

7. Therefore, the impugned orders do not call for any interference except the cost that has been ordered at the time of allowing the applications is meagre. Considering the fact that the suit is of the year 2017 and also considering the fact that the evidence had already been recorded and the arguments were already concluded on 26.11.2020, the cost, a sum of Rs.2,000/- awarded by the Trial Court appears to be meagre. Therefore, the respondents 1 to 11 are directed to pay an additional amount of Rs.3,000/- to the petitioner. The respondents 1 to 11 shall pay the aforesaid amount within a period of 30 days. In case, the respondents 1 to 11 fails to pay the aforesaid amount, the same shall be recovered by the petitioner as cost along with judgment and decree to be passed in the suit in the manner known to law.



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8. With the above directions, these Civil Revision Petitions are dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

21.04.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
dss

To

1. The District Munsif Court,
Paramakudi.
2. The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

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