



CRP No.247 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

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1.N.Palanisamy
2.S.Somasundaram

... Petitioners

Vs.

N.Shanthi

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order in IA No.4 of 2023 in O.S.No.3 of 2019 dated 30.10.2023 on the file of the Learned District Munsif, Perundurai and allow the civil revision petition.

For Petitioners : Mr.D.Jeevitha



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ORDER

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The civil revision petition is filed to set aside the fair and decreetal order in IA No.4 of 2023 in O.S.No.3 of 2019 dated 30.10.2023 on the file of the Learned District Munsif, Perundurai and allow the civil revision petition.

2. The petitioners are defendants and respondent is plaintiff in OS No.3 of 2019 on the file of the District Munsif, Perundurai. The respondent/plaintiff filed the suit for permanent injunction. Pending suit, the respondent/plaintiff has filed an application under Order 6 Rule 17 and Section 151 of CPC in IA No.4 of 2023 to permit the plaintiff to amend the plaint by deleting first two items of the plaint schedule properties as there is no dispute with regard to first two items of the plaint schedule properties. The dispute is only with regard to third item of the property. After hearing, the learned Judge, by order dated 30.10.2023, had allowed the application and permitted the plaintiff to delete first two items of the property on payment of cost of Rs.3000/- payable to the defendants on or before



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04.11.2023. Challenging the said order, the petitioners have filed the present the present civil petition.

2. Learned counsel for the petitioners submits that the property is covered under the Will dated 12.06.1997. Since the covered properties have been withdrawn by the trial court, it will cause prejudice to the defendants. Hence, seeking to allow the Revision.

3. Heard the learned counsel for the petitioner and perused the material available on record.

4. It is not disputed that initially the plaintiff filed the suit for 3 items of the property mentioned in the plaint schedule and thereafter the plaintiff found that the first two items were undisputed properties and they were mistakenly included in the plaint schedule property. Dispute is only with regard to third item of the property. Hence, he filed this amending petition seeking to remove the first two items of the plaint schedule property. It was



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allowed by the trial court by passing the impugned order on payment of costs of Rs.3,000/- to the defendants on or before 04.11.2023. Since there is no dispute with regard to first two items of the plaint schedule property, the trial court permitted the plaintiff to delete the said items as it was included mistakenly. Therefore, allowing the amendment petition is reasonable. There is no infirmity in the order passed by the trial court. There is no ground to interfere in the order passed by the trial court. There is no merit in the Revision. Hence, the civil revision petition is dismissed. There shall be no order as to costs. Consequently, CMP No.1162 of 2024 is closed.

20.02.2024

mrn



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To
The District Munsif, Perundurai



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V.SIVAGNANAM, J.

(mrn)

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