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C.R.P.D.No.125 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.R.P.D.No.125 of 2023

and

C.M.P.No.1054 of 2023

Sankar ... Petitioner/Respondent/Defendant
Vs.

Sathya ... Respondent/Petitioner/Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order passed in I.A.No.1 of 2022 in O.S.No.18 of 2014 dated 13.10.2022 by the learned District Munsif-cum-Judicial Magistrate. Uthiramerur, Kancheepuram District.

For Petitioner : Mr.M.Nanda Kumar
for M/s.Eswar Kumar and Rao

For Respondent : No Appearance

ORDER

The sole defendant herein has preferred this Revision against the order dated 13.10.2022 made in I.A.No.1 of 2022 in O.S.No.18 of 2014



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by the learned District Munsif-cum-Judicial Magistrate. Uthiramerur, Kancheepuram District.

2. Heard Mr.M.Nanda Kumar, learned counsel appearing for the petitioner. There is no representation for the respondent.

3. The sole plaintiff Mrs.Sathya Murugesu Achari has filed a suit for the declaration of title in respect of right of path-way and for permanent injunction not to disturb his right of path way. At the stage of arguments, the plaintiff has taken out an application under Order VI Rule 17 CPC stating that the Survey numbers mentioned in the B-schedule properties are not correct and the correct survey numbers to be amended.

4. This was resisted by the respondent by stating that the petition for amendment was filed belatedly.

5. The trial Court has allowed the application for amendment stating that the amendment is necessary to determine the rule question in



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controversy between the parties.

6. No doubt the plaintiff has taken out the amendment petition not at the early stage. It is relevant to note that a new proviso has been introduced to the Rule (Order VI Rule 17 CPC) to the effect that no application for amendment of the pleadings shall be allowed after the trial has commenced. But, the Courts are given discretion to decide the issue. In the amendment petition, basic principle that ought to be taken note of is that (i) Whether the amendment sought is necessary for effective adjudication of the case (2) Whether the application is bonafide (3) Whether the amendment would cause any prejudice to the other side (iv) If the plaintiff is refused the prayer whether it would lead to multiple litigation and lastly (v) if the proposed amendment changes the basic nature of the case. If these questions are applied to the facts of this case, answer for the above said questions are emphatic 'yes'.

7. From a careful reading of plaint, written statement, affidavit enclosed with the petition and the counter, it is pellucid that the survey numbers have been mentioned mistakenly in the plaint schedule of



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property and in order to rectify the said mistakes, this application was taken out and it was rightly ordered by the trial Court. By passing the impugned order, no prejudice whatsoever would have been caused to the defendant. Therefore, I find no infirmity or perversity in the orders of the trial Court.

8. Based on the afore said observations, this Civil Revision Petition stands dismissed. Considering the year in which the suit was filed, the trial Court is directed to dispose of the case preferably within a period of 10 weeks from the date of receipt of a copy of this order, as the case is in the stage of arguments. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

29.10.2024

Index:Yes/No
Speaking / Non-Speaking Order
Neutral Citation Case:Yes / No
ssn

To



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WEB COPY District Munsif-cum-Judicial Magistrate,
Uthiramerur,
Kancheepuram District.

R.KALAIMATHI, J.,

ssn

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