



C.R.P.(PD)No.305 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD)No.305 of 2023

and

C.M.P.No.2539 of 2023

1.B.Easther Panchammal

2.B.Prakasam

.. Petitioners

Vs.

1.Haseena Begam

2.The Sub-Registrar,
Tambaram Sub-Registrar Office

3.The District Collector,
Kancheepuram District

.. Respondents

Prayer : The Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order made in I.A.No.390 of 2019 in O.S.No.114 of 2016 on the file of the District Munsif, Tambaram, Kancheepuram District, dated 14.12.2021.

For Petitioners : Mr.S.Vijayakumar

For R1 : Mr.M.Mohammed Yasin, No Appearance

For RR2 & 3 : Mr.C.Sathish
Government Advocate



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ORDER

The present Civil Revision Petition challenges an order passed in I.A.No.390 of 2019 in O.S.No.114 of 2016 on the file of the learned District Munsif at Tambaram.

2. O.S.No.114 of 2016 has been filed by the first respondent seeking declaratory and injunction reliefs.

3. The declaration is that the settlement deed executed by the 1st defendant in favour of the 2nd defendant is null and void and for permanent injunction restraining them from interfering with her peaceful possession and enjoyment of the property by trespassing into the same.

4. On service of summons in the suit, a detailed written statement had been filed by defendant Nos.1 and 2. The suit is still at the pre-trial stage.

5. In and around January 2019, the plaintiff took out an application in I.A.No.390 of 2019 seeking relief of an amendment to the plaint. The relief that she seeks is that she wants to mention the old survey number as well as the new survey number, and to give the extent of the property. On receipt of



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this application, the learned District Munsif at Tambaram received a counter from the respondents.

6. The respondents would plead that they have already filed a suit in O.S.No.109 of 2013 on the file of the learned District Munsif at Tambaram, and would plead that the suit schedule mentioned property is situated in Survey No.75/1A and not in Survey No.75/21. They would further plead that the two properties are entirely different and the plaintiff, by virtue of an amendment application, is seeking to grab the property of the defendants.

7. The learned District Munsif at Tambaram taking into consideration that the suit is yet to reach the stage of trial, and since it is the contention of one party that both the survey numbers are one and the same, on the other hand it is the contention of the other party that both the survey numbers are different, he decided, for the purpose of complete adjudication, that the application deserves to be allowed. Against the said order, the present civil revision petition has been presented before this Court.

8. The test for amendment is whether it changes the cause of action,



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the frame of the suit or withdraws an admission that has been made by the plaintiff in the plaint. The pre-trial amendments have to be liberally construed as the matter is only posted for the commencement of trial for the proviso under Order VI Rule 17 of the Code of Civil Procedure will not operate.

9. The real issue that has to be decided is to whether the Survey Nos.75/1A and 75/21 are one and the same properties. By virtue of this amendment, the Court has not foreclosed the right of the defendants to let in evidence to show they are entirely two different sets of properties, and get the suit filed by the plaintiff dismissed.

10. The amendments, at best, are clarificatory in nature and it does not decide the rights and liabilities of the parties. As the proposed amendment does not fall within the fold of amendments which ought not to be allowed, I do not find any reason to interfere with the same.

11. The learned counsel for the petitioner would draw my attention to the computerized Patta that has been issued on 28.07.2021 by the Tahsildar



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at Tambaram, and would contend that the properties are different. This document, if admissible, can always be produced by the defendants before the trial Court and ofcourse, the trial Court will take note of the fact that the suit had been presented in April 2016 and the other suit filed by the defendants is pending from the year 2013 and the revenue document has come into force only in the year 2021, and decide the same at the time of the final disposal.

12. As the amendment is not bared and the same being a pre-trial amendment, I do not find any reason to interfere with the same. Accordingly, the Civil Revision Petition stands dismissed. No costs. The connected Civil Miscellaneous Petition is closed.

25.06.2024

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

V. LAKSHMINARAYANAN, J.

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To
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The learned District Munsif,
Tambaram

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