



C.R.P.No.2186 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.2186 of 2024

1.Latha

2.Saraswathi

... Petitioners

Vs.

Krishnasamy (Died)

Ammaniammal (Died)

1.Rajendran

2.Sampath

3.Kanaka

4.Kissan Vignesh

5.Panneerselvan

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the docket order in Sr.No.992 and direct the learned I Additional District Judge, Tiruppur in O.S.No.721 of 2010 to permit the petitioners to amend the plaint.

For Petitioners : Mr.G.R.Deepak

For R1 to R3 : Mr.Sailesh Kumar



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ORDER

The petitioners/plaintiffs in O.S.No.721 of 2010 filed an interlocutory application under Order 6 Rule 17 r/w. 151 and 152 CPC seeking for correction of typographical error crept in item No.2, wherein S.No.547 has to be corrected as S.No.577. This petition was returned by the Trial Court with an endorsement “How this petition is maintainable when the suit is disposed before Lok Adalath to be stated. Hence this petition returned along with documents”. Against which, the present petition is filed.

2.The learned counsel for the petitioners submitted that the petitioners filed a suit for declaring the two cancellation deeds executed by the second defendant on 18.08.2010 as null and void and not binding on the plaintiffs and division of suit properties into six equal shares in item Nos.1 to 3 and allot two such shares contiguously to the plaintiffs and directing the division of item No.2 of the suit properties into 28 equal shares and allot 9 such shares contiguously to the plaintiffs and order separate possession of the shares allotted to the plaintiffs to them. In the suit, preliminary decree came to be passed on 31.01.2012 and thereafter, at the stage of final decree, cases



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was referred to Lok Adalat. In the Lok Adalat proceedings on 08.07.2018 as per the compromise entered between the parties, it was decided that all the properties in item Nos.1 to 3 in the suit will be sold out and the sale proceeds to be apportioned as per the share allotted to each of the plaintiffs and the defendants in the suit. Thereafter, when the property in item NO.2 in the suit was proposed to be negotiated for sale, it was found that survey number has been wrongly mentioned in the plaint as S.No.547 instead of S.No.577, for which the plaintiffs filed an application for correcting the same but the Trial Court wrongly considered as though settlement arrived at in Lok Adalat, is attempted to be corrected and the order would change the character of the judgment and decree.

3.The learned counsel for the respondents 1 to 3 would submit that the defendants 1 and 2 in the suit are no more and the respondents 1 to 3/defendants 3 to 5 in the suit, who are the surviving defendants had given no objection for correcting the mistake crept in the plaint by filing a memo and consequently, appropriate corrections be made in the subsequent orders. A scanned reproduction of the memo filed by the respondents is as follows:



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MEMO FILED BY THE RESPONDENTS

1. The Respondents submit that suit was filed by the plaintiff in O.S.No:721/2010, where the Learned Additional District Judge and Fast Track court no. IV at Coimbatore was pleased pass a preliminary decree. It is submitted that the petitioner had filed a final decree petition and the case was referred to mediation wherein a Lok Adalak Award was passed to sell the property and the proceeds of the sale shall be distributed as per their respective shares.
2. It is submitted that it was found that the plaintiff has made a typographic error in Item 2 of the Schedule of Property and have stated S.F.No:547 instead of S.F.No:577. It is submitted that the petitioner has thereafter filed an amendment petition to amend the plaint which was returned by the Learned 1st Additional District Judge, Tiruppur.
3. It is submitted that the respondents have no objection to make the amendment in the plaint.



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Therefore, it is humbly prayed that this Hon'ble Court may please to permit the petitioner to amend the plaint and the respondent have no objection in allowing the same and render justice.

[Signature]
2397/17
COUNSEL FOR RESPONDENTS

[Signature]
Rajendran

[Signature]
Sampath

[Signature]
Kanaka

[Signature]
Kissan Vignesh

[Signature]
Panneerselvan Krishnasamy

4.Considering the submissions made and on perusal of the materials,
it is seen that in a partition suit, preliminary decree has been passed and



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thereafter, at the stage of final decree, on mutual understanding compromise arrived at between the parties before the Lok Adalat. It is only survey number in item No.2 of the suit schedule property was wrongly mentioned in the plaint and consequently, it crept in, in the subsequent orders. Further, the respondents/defendants 3 to 5 had no objection to correct the mistake in the plaint and a memo was filed by the respondents to that effect. In view of the memo, this Court directs the Trial Court to receive the amendment petition, carry out the amendment in the plaint and thereafter, carry out the corrections in the consequential orders.

5. With the above directions, the Civil Revision Petition stands disposed of. No costs.

09.07.2024

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

cse

Note: The Registry to return the original papers to the petitioners so that they can represent the same before the Trial Court.

To

The I Additional District Judge,
Tiruppur.



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M.NIRMAL KUMAR, J.

cse

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