



WEB COPY



C.R.P. (NPD) Nos.2335 and 2336 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 22.10.2024

DELIVERED ON: 25.10.2024

CORAM:

THE HONOURABLE MR. JUSTICE P.B.BALAJI

C.R.P. (NPD) Nos.2335 and 2336 of 2021 & C.M.P. No.17694 of 2021

- | | | |
|----|--------------|--------------------------|
| 1. | Girija | |
| 2. | Vasanthi | |
| 3. | Soorykala | |
| 4. | Sivasakthi | Petitioners in both CRPs |
| | | vs. |
| 1. | Chandran | |
| 2. | Radharukmani | |
| 3. | Vijaykumar | |
| 4. | Jayakumar | Respondents in both CRPs |

Civil Revision Petitions filed under Section 115 of the Civil Procedure Code seeking to set aside the orders dated 23.01.2021 in I.A. Nos.3 of 2020 and 4 of 2020 respectively in A.S. No.28 of 2017 on the file of the Sub Court, Mettur.



WEB COPY



C.R.P. (NPD) Nos.2335 and 2336 of 2021

For petitioners in
both CRPs Mr. R. Vivekanandan

RR 1 & 2 Unclaimed in both CRPs

For RR 3 & 4 Mr. V. Sekar

For R5 Mr. L.P. Maurya

COMMON ORDER

Since both the instant civil revision petitions emerge from the same appeal suit, they are considered and decided by this common order.

2. The plaintiffs in O.S. No.197 of 2013 on the file of the District Munsif Court, Mettur, are the petitioners herein. The said suit was filed for declaration that the plaintiffs are the absolute owners of the suit property and to consequently direct the defendants 1 to 4 to vacate and hand over vacant possession. The relief of permanent injunction was also sought along with the prayer for mandatory injunction to cancel the house tax order in the name of defendants 1 and 2.

3. On contest, the suit came to be dismissed on 28.02.2017. The plaintiffs preferred an appeal in A.S. No.28 of 2017 before the Sub Court,



Mettur. In the pending appeal, the petitioners/appellants took out an application to amend the door number of the suit property as 'D.No.176/A12A' instead of 'Door No.176/12A' in I.A. No. 3 of 2020. The petitioners/appellants took out another application in I.A. No.4 of 2020 to rectify the mistakes that had crept in, in the judgment and decree passed in the original suit and also in the memorandum of grounds of appeal. The said applications came to be dismissed by the first appellate Court on the ground that the amendment cannot be ordered since it is after commencement of the trial. Aggrieved by the said order of dismissal, the present revision petitions have been preferred by the plaintiffs.

4. I have heard Mr. Vivekanandan, learned counsel for the petitioners, Mr. V. Sekar, learned counsel for respondents 3 and 4 and Mr.L.P. Maurya, learned counsel for the fifth respondent and also perused the records, including the impugned order.

5. At the outset, I find from the pleadings available and also the judgment of the Trial Court, that there is no dispute with regard to the



identity of the suit property. Therefore, absolutely, no prejudice would be caused to the respondents if the plaintiffs are allowed to amend the door number of the suit property, which, according to them, has been incorporated wrongly by inadvertence. In any event, even according to Mr.V. Sekar, learned counsel for respondents 3 and 4, the suit was dismissed not on the ground of wrong description of property, but, on various other material grounds. Therefore, I do not see any prejudice being caused to the respondents/defendants if the petitioners/plaintiffs are allowed to amend the door number of the suit property. In fact, prejudice would be caused to the petitioners/plaintiffs in the event of they succeeding in the appeal, for, they would not be in a position to execute the decree if the door number is incorrectly mentioned in the decree. Therefore, leaving the parties to agitate their respective contentions in the appeal, the amendment as sought by the revision petitioners is to be ordered.

6. In fact, the reasons assigned by the first appellate Court that no amendment can be permitted post trial is not a blanket proposition and wherever a just and sufficient cause is shown by the person seeking



C.R.P. (NPD) Nos.2335 and 2336 of 2021

amendment, the first appellate Court is certainly entitled to order amendment. In the instant case, in order to avoid any technical objections being raised later and in the interest of justice, it is just and fair that the petitioners are allowed to amend the plaint as sought by them and consequently, the other amendments which are subject matter of I.A. No.4 of 2020.

In view of the above, the impugned orders are set aside and these civil revision petitions are allowed. No costs. Connected C.M.P. stands closed.

25.10.2024

cad

To

- 1 The District Munsif
Mettur
- 2 The Sub Judge
Mettur



WEB COPY



C.R.P. (NPD) Nos.2335 and 2336 of 2021

P.B. BALAJI, J.

cad

C.R.P. (NPD) Nos.2335 and 2336 of 2021

25.10.2024