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C.R.P.(NPD).No.1968 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(NPD).No.1968 of 2020

G.Jagadeesan

... Petitioner

VS

1.Ravichandran

2.G.Sundaram

3.Saravanan

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to direct the learned Principal Subordinate Judge at Salem to number the Unnumbered IA.No. of 2020 in IA.No.1053 of 2001 in OS.No.617 of 1987 filed by the petitioner herein under Section 152 and 153 CPC and dispose of the Unnumbered IA.No. of 2020 on merits and allow the C.R.P.

For Petitioner : Mr.R.Nalliyappan

For R1 and R3 : No Appearance

For R2 : Died



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ORDER

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The Civil Revision Petition is filed aggrieved by the order of the Trial Court returning the application filed by the petitioner seeking to amend the final decree passed in a partition suit.

2. The petitioner by way of amendment wants to amend certain details in the description of the property. The petitioner is the 3rd defendant in the suit. The petitioner has not sought for amendment of the description found in the plaint schedule. Without amending the description of the property found in the plaint as well as preliminary decree, it is not open to the petitioner to seek amendment of the final decree alone.

3. The Division Bench of this Court in *Solavaiammal vs. Ezhumalai Gounder* reported in *2012(1) CTC 159* held that in case of partition suit, even a defendant is entitled to seek amendment of the plaint in appropriate cases.



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4. Therefore, unless the petitioner seeks amendment of the plaint as well as preliminary decree, the petition for amendment of the final decree alone cannot be entertained.

5. Accordingly, the Civil Revision Petition is dismissed with liberty to the petitioner to seek amendment of the plaint, preliminary decree and final decree, if so advised. It is made clear that if any such application is filed by the petitioner, the same shall be considered by the Court below on its own merits, without being influenced by anything said in this order. No costs.

06.03.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

To

The Principal Subordinate Judge,
Salem.



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S.SOUNTHAR, J.

dm

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