



CRP No.2910 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2024

CORAM

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

CRP No.2910 of 2024
and CMP No.15529 of 2024

1. Gopal
2. Muthukumaran
(Petitioners 1 and 2 rep. by their Power Agent
Kannadasan)

.. Petitioners

-VS-

Vaduvammal (died)

1. Senthilkumar
2. Maheswari
3. Karunanithi
4. Selvi
5. Tamilkodi
6. Maheswari
7. Boopalan
8. Bhuvaneswari
9. Pagalavan
10. Rani
11. Sivakumar
12. Nithya
13. Boopathi
14. Thilagavathi

.. Respondents



CRP No.2910 of 2024

Prayer: Petition filed under Article 227 of the Constitution of India against the order and decree dated 20.12.2023 in I.A.No.384 of 2023 in O.S.No.87 of 2015 on the file of District Munsif, Mannargudi.

For Petitioners : Mr.K.A.Ravindran

* * * * *

ORDER

This civil revision petition arises against the order dated 20.12.2023 passed by the learned District Munsif, Mannargudi, in I.A.No.384 of 2023 in O.S.No.87 of 2015.

2. O.S.No.87 of 2015 had been filed for the relief of declaration and consequential permanent injunction. Pending the suit, an amendment application was filed in I.A.No.200 of 2018 to correct the survey number. The petition was allowed and the amendment was carried out. That order remained unchallenged. After the amendment was carried out, the parties have let in evidence and have also concluded their arguments. At that stage,



CRP No.2910 of 2024

it came to the notice of the plaintiffs that the amendment that was carried out pursuant to the order in I.A.No.200 of 2018 had been wrongly effected. Hence, they preferred another application in I.A.No.384 of 2023 to rectify the error committed by them. The said application was allowed, against which the present revision.

3. Heard Mr.K.A.Ravindran for the civil revision petitioner.

4. The facts set forth above would show that the plaintiffs had the benefit of an amendment pursuant to the order in I.A.No.200 of 2018. However, while carrying out the amendment, they had committed a mistake. Mr.K.A.Ravindran would submit that this amendment attracts the wrath of the proviso under Order 6 Rule 17. He would state that had the plaintiff been diligent, they would have known that they had given the wrong survey number pursuant to the order in I.A.No.200 of 2018 and therefore, the petition ought to have been dismissed.



CRP No.2910 of 2024

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5. It is beyond said that proviso to Order 6 Rule 17 increases the bar for the plaintiff to seek amendment after the trial has commenced. It is not a total bar for allowing the application. The Court always has the jurisdiction to allow an amendment even after the commencement of trial provided it comes to the conclusion that if the party despite due diligence could not have raised the matter before. Here is a case of typographical error at the instance of the counsel who had carried out the amendment. This would not come into the teeth of Order 6 Rule 17 proviso. All that has been done is the correction of typographical error which the Court can always do even in the second appellate stage.

5. I do not find any merit in this civil revision petition. The civil revision is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

05.08.2024

Index : Yes/No
Neutral Citation : Yes/No

sra



CRP No.2910 of 2024

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The District Munsif Court,
Mannargudi.



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CRP No.2910 of 2024

V.LAKSHMINARAYANAN, J.

(sra)

CRP No.2910 of 2024

05.08.2024