



WEB COPY



C.R.P. No.3425 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2024

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

C.R.P. No.3425 of 2022
and C.M.P. No.18181 of 2022

M. Thawlathunnisha W/o. Malik Deen

... Petitioner / Petitioner /
Plaintiff

Vs.

1. S. Vasanthi W/o. Selvam

2. Hari Prasath (Minor)

3. Vishali (Minor)

(represented by their next friend / natural guardian
1st defendant herein)

4. Kasthuri W/o. Patchaiyappan

..... Respondents / Respondents /
Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order of the learned II Additional District Judge, Tindivanam in I.A. No.1 of 2022 in O.S. No.16 of 2019 dated 17.08.2022.

For Petitioner : Mr. S.C. Vishwanth

For Respondents : Mr. R. Thirugnanam

ORDER

The Civil Revision Petition has been preferred as against the order dated 17.08.2022 passed in I.A. No.1 of 2022 in O.S. No.16 of 2019, wherein



C.R.P. No.3425 of 2022

the petitioner herein has filed a petition to amend the plaint value and the same was dismissed by the Trial Court. Aggrieved by the said order, the present civil revision petition is filed.

2. According to the petitioner, she is the Plaintiff in the main Suit and she filed a Suit for relief of specific performance of contract and for recovery of possession. After institution of the Suit, the respondents / defendants approached the petitioner / plaintiff to settle the issue out of the Court and they demanded to increase sale value at Rs.45 lakhs. Based on the request, the Plaintiff also agreed to pay excess amount of Rs.20 lakhs in total Rs.45 lakhs. To that effect, they also executed receipt dated 27.08.2019. The respondents / defendants also handed over the original title deeds. Thereafter, when the petitioner approached the respondents / defendants, they failed to execute sale deed as agreed by them. Since the value of the sale was increased from Rs.20 lakhs to Rs.45 lakhs, there is necessity to amend the Suit value and thereby, they filed a petition before the Trial Court and the Trial Court dismissed the petition. As against the said dismissal order, the present civil revision petition is filed.

3. The respondents filed a counter before the Trial Court stating that they denied the averments that they approached the petitioner and sought for



enhancement of sale consideration to sell the property by fixing the sale price as Rs.45 lakhs and also they had given receipt to that effect. In fact, already these respondents filed written statement dated 27.08.2019 by narrating the true facts in the original Suit. Thereafter, on after-thought, the petitioner has filed this amendment petition and the same is inadmissible. The petitioner has stated a new cause of action and it will alter the nature and character of the Suit and hence the petition is liable to be dismissed. The Trial Court also, after elaborate discussion, correctly dismissed the petition.

4. Before the Trial Court, no oral or documentary evidence adduced on either side. The Trial Court, after hearing both sides, dismissed the petition. Against the said dismissal order, the present civil revision petition has been preferred by the petitioner.

5. The learned counsel appearing for the petitioner would contend that the petitioner has filed the Suit for the relief of specific performance of contract and the sale price, initially fixed at Rs.20 lakhs. The Suit is also originally filed for the said sale value. During the pendency of the Suit, there was compromise arrived at between the parties and as per the compromise, the respondents / defendants agreed to sell the property by enhancing sale price at Rs.45 lakhs. To that effect, receipt was also issued by the respondents /



C.R.P. No.3425 of 2022

defendants. Even after that they are not ready to sell the property for the above said enhanced amount of Rs.45 lakhs. Therefore, plaint has to be amended for the said enhanced value. But the Trial Court, failed to consider the above said facts and dismissed the petition. Hence the order passed by the Trial Court is liable to be set aside.

6. The learned counsel appearing for the respondents would contend that the respondents never agreed to sell the property and they never agreed for enhancement of Rs.45 lakhs and the averments that the respondents agreed to sell the property for the enhanced value of Rs.45 lakhs and to that effect, they had also given receipt, are all denied as false. The proposed amendment by enhancing value of the suit property introduces a new cause of action and it will alter the nature and character of the Suit and the Trial Court correctly declined to allow the amendment petition filed by the petitioner. Therefore, the order passed by the Trial Court is in order and the present civil revision petition is liable to be dismissed.

7. Heard both sides and perused all the materials available on record.

8. In this case, the petitioner has filed a petition to amend value of the

Plaint. Initially the Plaint was filed for the value of Rs.20 lakhs. According to



C.R.P. No.3425 of 2022

the petitioner, during the pendency of the Suit, the matter was compromised between the parties and as per the compromise, the respondents demanded enhancement of sale price of Rs.45 lakhs and the same was accepted by the petitioner and the respondents issued receipt to that effect. Thereafter, the respondents have not come forward to execute the sale deed as agreed by them for a sum of Rs.45 lakhs. Therefore, the value of the Suit has to be amended from Rs.20 lakhs to Rs.45 lakhs. The respondents denied the enhancement of sale price to Rs.45 lakhs. While so, it is the duty of the petitioner to prove his contention and further, even if it is admitted fact that during the pendency of the Suit only, the above said compromise was entered into between the parties. However, the respondents / defendants denied the same. The amendment would alter the nature of Suit, since introduces a new cause of action. Therefore, it is not appropriate to allow the petition seeking amendment to enhance the value of the Plaint from Rs.20 lakhs to Rs.45 lakhs. The Trial Court, in this context, elaborately discussed about the same and held that amendment of the Suit value will alter the nature and character of the Suit and thereby, the petition is not maintainable. Therefore, the order passed by the Trial Court is in order and it does not warrant any interference.

9. In view of the above discussion, this court is of the opinion that the civil revision petition has no merits and deserves to be dismissed.



C.R.P. No.3425 of 2022

10. Accordingly, the Civil Revision Petition is dismissed. No costs.

Consequently, the connected civil miscellaneous petition is closed.

08.07.2024

Index : Yes/No
Speaking order/non-speaking order
mjs

To

The II Additional District Judge, Tindivanam.



WEB COPY



C.R.P. No.3425 of 2022

P.DHANABAL, J.,

mjs

CRP. No.3425 of 2022

08.07.2024