



C.R.P.(PD).No.1339 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.1339 of 2017

and

C.M.P. No.6220 of 2017

Shanmughavel
S/o. Ayya Subramania
Rep.by its Power Attorney
Panchatcharam

... Petitioner

Versus

1.Palani (Died)
2.Poompavai
3.Thamarai Selvi
4.Kameshwaran
5.Sathyaseelan

... Respondents

[R2 to R5 are brought on record as
LR's of the deceased sole respondent vide
order dated 31.01.2024 in CMP.Nos.29064 to 29066 of 2023]

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set the order dated 19.01.2017 passed in I.A.No.679 of 2015 in O.S.No.962 of 2005 on the file of the Additional District Munsif Court, Poonamalee.

For Petitioner : Mr. S. Balasubramanian

For Respondents : Mr. V. R. Appasawmee (for R2 to R4)



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ORDER

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This Civil Revision Petition is filed challenging the order dated 19.01.2017 passed by the Trial Court dismissing the amendment application in I.A.No.679 of 2015 in O.S.No.962 of 2005 filed by the petitioner.

2. The petitioner herein is represented by his Power Agent Mr. Panchatcharam. The suit was presented by the Power Agent against the deceased first respondent seeking permanent injunction restraining the respondent from interfering with the petitioner's peaceful possession and enjoyment of the suit property. In the suit, an amendment application was filed by the petitioner to correct the boundaries of the suit properties. In the affidavit filed in support of the amendment application, it was stated by the Power Agent of the petitioner that in the Power Deed executed in his favour, the four boundaries of the suit properties were wrongly given due to oversight and typographical error. Therefore, the petitioner wants to include the correct boundaries by amending the schedule in the plaint. The said amendment application was dismissed by the Trial Court mainly on



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the ground that the petitioner is not entitled to seek amendment without correcting the description of boundaries found in the Power Deed.

3. The Trial Court held that the description of boundaries found in the plaint is matching with the boundaries found in the Power Deed executed by the petitioner in favour of his Power Agent, who presented the suit. Therefore, the present suit has been filed by the petitioner through his Power Agent on the strength of Power Deed wherein, the boundaries are given as found in the original plaint. The affidavit filed in support of the amendment application, had been filed only by the Power Agent and not by the petitioner. In such circumstances, without seeking amendment of description of the property in the Power Deed, it is not open to seek amendment of the description of the property in the plaint. The Trial Court has rightly come to the conclusion that the petitioner is not entitled to the amendment of the boundaries description found in the plaint, without amending the boundary description in the Power Deed. This Court does not find any error in the order passed by the Trial Court, and this Civil Revision Petition is liable to be dismissed.



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4. However, it is made clear that it is always open to the petitioner to execute a new Power Deed in favour of his Power Agent by giving correct description of boundaries as available on the ground.

5. In case, if a new Power Deed is executed in favour of the Power Agent of the petitioner, it is open to the petitioner, to file an application for amendment of the boundaries description found in the new Power Deed.

6. With the above observation, this Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is also closed.

21.02.2024

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

klt

To:

1.The Additional District Munsif Court, Poonamalee.



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S. SOUNTHAR. J.,

klt

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