



C.R.P.No.27 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.27 of 2023
and C.M.P.No.224 of 2023

1.Rajammal
2.G.Manokaran
3.G.Sakthivel
4.G.Thirumurugan
5.G.Suresh

... Petitioners

-Vs-

1.Madhaiyan
2.Jayamani
3.Sigamani
4.Sivaji

... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India to set aside the fair and decretal order dated 08.11.2022 made in I.A.No.411 of 2019 in O.S.No.150 of 2015 on the file of the District Munsif Court, Dharmapuri and to allow the CRP.

For Petitioners : Mr.C.Prabakaran

For Respondents : Mr.B.Sundarapandian

ORDER

This Civil Revision Petition arises out of the dismissal of the amendment application filed in I.A.No.411 of 2019 in O.S.No.150 of 2015 on the file of the



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District Munsif Court at Dharmapuri. The amendment application had two portions viz., amendment insofar as 'A' schedule property is concerned from Survey No.212/11B to Survey No.212/11A with a consequent correction in the extent. The second portion related to Survey No.212/11A which was the subject matter of the suit in O.S.No.147 of 2015 initiated by the respondent as against the petitioner.

2. O.S.No.147 of 2015 was a suit for declaration of title and for permanent injunction. The said suit was decreed on 26.10.2017. The application taken to set aside the exparte decree was allowed on 26.03.2018 on condition the petitioner pays a sum of Rs.2000/-. However, the petitioner did not pay the amount and consequently the said application under Order IX Rule 13 stood dismissed. The petition filed under Section 148 of C.P.C. in I.A.No.511 of 2018 came to be dismissed and the revision preferred therefrom in C.R.P.No.2255 of 2019 also ended in dismissal. In other words, exparte decree that had been passed by the Court on 26.10.2017 had reached a finality.

3. The latter portion of the amendment ie., from Paragraphs 2 to 7 in I.A.No.411 of 2019 deals exactly with the suit schedule mentioned property which is covered by the decree in O.S.No.147 of 2015. If the amendment sought for in Paragraphs 2 to 7 is granted, it would amount to permitting the petitioner to disturb the decree granted by the very same Court in O.S.No.147 of 2015 dated 26.10.2017. This would be altering the cause of action as well as the frame of the



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suit as originally framed. However, insofar as Paragraph 1 of the petition is concerned, it only seeks for correction of typographical error with respect to 'A' schedule mentioned property.

4. Therefore, while confirming the order of the learned District Munsif, Dharmapuri in I.A.No.411 of 2019 dated 08.11.2022, insofar as the amendment framed at Paragraphs 2 to 7 is concerned, I would interfere only with respect to the amendment sought for in Paragraph 1. The amendment application will be allowed only insofar as that portion is concerned and would stand dismissed with respect to the other portions. It is made clear that the plea of *res judicata* that has been raised by the respondents would necessarily have to be gone into by the Court, as there is identity in the Survey Numbers involved.

5. With the above observations, the civil revision petition is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

04.06.2024

Index : Yes/No

Neutral Citation : Yes/No

KST

To

The District Munsif
Dharmapuri.



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V. LAKSHMINARAYANAN, J.

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