



WEB COPY **BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 02.02.2024

CORAM:

THE HONOURABLE MR JUSTICE C.KUMARAPPAN

C.R.P(PD)(MD)No.470 of 2010

and

M.P(MD)No.1 of 2010

Solachi,
Wife of Late. Balavillathan,
through her Power Agent
Pitchaikutti,
Son of Nachiappan

... Petitioner/Respondent/Defendant

.Vs.

- 1.Rabiya Beevi(died)
- 2.C.N.Abdullah Rowther
- 3.Regina Begum(died)
- 4.Abdul Jabar
- 5.Noor
- 6.Shaul Hameed
- 7.A.Syed Moammed



WEB COPY 8.A.Abbas

9.Rajitha Begum

(Respondents 2 to 8 are brought on records as Lrs of the deceased Ist Respondent as per order of this Court made in M.P(MD)No.1 of 2015 and C.M.P(MD)Nos. 8595 to 8507 of 2019 in C.R.P(MD)No.470 of 2010, dated 09.12.2022)

(9th respondent is brought on records as LR of the deceased third respondent as per order of this Court made in C.M.P(MD)Nos.6505 to 8507 of 2019 in C.R.P(MD)No.470 of 2010, dated 09.12.2022)

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India praying this Court to set aside the order and decretal order made in I.A.No. 230 of 2009 in O.S.NO.50 of 2007, dated 17.12.2009, on the file of Additional District Munsif, Karaikudi.

For Petitioner : Mr.VR.Shanmuganathan

For Respondents :Mr.S.Sukumar
2 and 4 to 8

ORDER

This Civil Revision Petition is filed seeking to set aside the order and decretal order made in I.A.No.230 of 2009 in O.S.NO.50 of 2007, dated



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17.12.2009, on the file of Additional District Munsif, Karaikudi.

2. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3. The instant suit has been filed by the respondent for the relief of declaration and while the suit was pending, the respondent/Plaintiff moved an application for amendment so as to amend the description of the property in order to validate the length and breadth, on the ground that their document refers only in "Thatchu Muzham" and each Thatchu Muzham is equal to 2 ½ feet. So based upon the said calculation, the respondent wanted to amend the plaint. The trial Court, after considering all the aspects, allowed the application on the ground that they have moved the instant amendment application after commencement of trial qua after examination of the plaintiff side three witnesses. According to the Petitioner, the trial Court failed to go into all the aspects and had simply allowed the amendment application. Hence the Petitioner moved the present Civil Revision Petition before this Court.



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4.This Court considered the submissions made by the learned counsels appearing on either side on the facts.

5.When the amendment application was filed, three witnesses were examined and also they were cross-examined.Even while seeing the grounds urged by the Petitioner, they say that their document refers to “Thatchu Muzham” which needs to be converted into feet. If the respondent had any grievance over the measurement, he ought to have vigilant and should have moved such an application before the commencement of trial. On a perusal of the affidavit filed by respondent, there is no due diligence on the part of the respondent/plaintiff. If the order of amendment application is sustained, the same is nothing but permitting the parties to fill up the lacuna, which is not permissible. Therefore, the order passed by the trial Court by allowing the amendment application is perverse and hence this Court wants to interfere with the same.

6.For the reasons aforesaid, the Civil Revision Petition is allowed, as a consequence, the amendment application is ordered to be dismissed. There is no order as to costs. Consequently, connected Miscellaneous Petition is closed.



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7. Considering the long pendency of the suit, this Court direct the trial Court to dispose of the main suit within a period three months from the date of receipt of a copy of this order. If the Petitioner wants to let in any further evidence, he is at liberty to let in further evidence, according to law.

02.02.2024

NCS : Yes/No
Index : Yes / No
Internet : Yes / No
vsn

To

1. The Additional District Munsif,
Karaikudi.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN,J.

vsn

ORDER MADE IN

C.R.P(PD)(MD)No.470 of 2010
and
M.P(MD)No.1 of 2010

02.02.2024