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C.R.P.(MD)No.176 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserved : 27/03/2024

Date of Pronounced : 17/04/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGO VAN**

C.R.P(MD)No.176 of 2024

and

CMP(MD)No.728 of 2024

1.Dr.K.R.Santharam

2.Dr.Thilak Santharam : Revision Petitioners/
Plaintiffs 1 and 2

Vs.

1.Sri.Kuttai D.Venkatraman : 1st Respondent/
1st Defendant

2.Smt.K.R.S.Girija Shyamsundar : 2nd Respondent/
3rd Plaintiff

PRAYER:-Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the order, dated 20/10/2023 in IA No.653 of 2019 in OS No.24 of 2017 on the file of the 6th Additional District Judge, Madurai in so far as it relates to the dismissal of the prayer for amendment in relation to the property in plot No.101, Anna Nagar, Madurai.

For Petitioners : Mr.T.Thevan

For 1st Respondent : Mr.M.Rajaraman

For 2nd Respondent : No appearance



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O R D E R

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This civil revision petition is filed seeking an order to set aside the order, dated 20/10/2023 in IA No. 653 of 2019 of 2019 in OS No.24 of 2017 on the file of the 6th Additional District Judge, Madurai in so far as it relates to the dismissal of the prayer for amendment in relation to the property in plot No.101, Anna Nagar, Madurai.

2.The facts in brief:-

Suit in OS No.24 of 2017 was filed by the plaintiffs namely the petitioners and the second respondent herein seeking the relief of partition and separate possession in respect of their 3/4th share in the suit property and for costs. The defendants entered appearance and filed written statement. During the course of the trial process, IA No.653 of 2019 was taken out by the petitioners herein to amend the plaint by including certain properties. That application was filed in IA No.660 of 2018. That was allowed. This petition is taken out to amend the plaint consequently. At that time of hearing the petition, they wanted to include Plot No.105 Anna Nagar, Madurai along Door Nos.98 and 99, Kamarajar Salai, Madurai.



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3.That was resisted by the 1st respondent herein stating that no permission was granted to the petitioners to include the Plot No.105, Anna Nagar, Madurai. So according to them, it is their personal property purchased out of their own funds, by document, dated 14/04/1980 I.e., the absolute property of the 1st defendant.

4.After hearing both sides, the trial court concluded that no permission was granted to the petitioners to include the Plot No.105, Anna Nagar, Madurai. In respect of Door Nos.98 and 99 at Kamarajanar Salai, Madurai, the application was allowed.

5.Against which, this civil revision petition is preferred.

6.Heard both sides.

7.The learned counsel appearing for the petitioners would make lengthy submission with regard to the genesis of the issue between the parties, nature of the properties, etc. But he missed the important point that no permission was granted by the trial court to include the Plot No.105, Anna Nagar, Madurai. How can



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straightaway seek the permission of the court to amend the plaint was not answered by him properly. In spite of that, as mentioned above, he was taking the court to various factual issues.

8.Per contra, the learned counsel appearing for the 1st respondent would submit that he has no objection to grant permission to the petitioners to move application to include Plot No.105, Anna Nagar, Madurai. In that event, he got every right to make objection. Without filing proper petition to include the Plot No.105, Anna Nagar, Madurai straightaway the plaint cannot amended.

9.Without going into the merits of the matter, I am of the considered view that liberty may be granted to the petitioners to move appropriate application to include the Plot No.105 Anna Nagar, Madurai in the plaint. In the event of filing the application, the petition may be decided after affording opportunity to both sides, with this this petition is dismissed.

10.With this liberty, this civil revision petition stands **dismissed**. No costs. Consequently, connected Miscellaneous Petition is closed.

17/04/2024

Index:Yes/No
Internet:Yes/No
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To,

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1.The 6th Additional District Judge,
Madurai.

2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN, J

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