



C.R.P.PD(MD)No.194 of 2020

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

**DATED : 13.03.2024**

**CORAM**

**THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR**

**C.R.P.PD(MD)No.194 of 2020**

1.Ramu

2.Shanmugavalli

3.Kamalam

4.Gomathi

... Petitioners

Vs.

1.Shanmugaraj

2.Sekar

3.Ramakumar

4.Lakshmanakumar

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India challenging the order passed in I.A.No.433 of 2019 in O.S.No.13 of 2018 dated 12.11.2019 on the file of the District Munsif Court, Paramakudi.



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For Petitioners : Mr.PT.S.Narendravasan

For Respondents : Mr.S.Karthikeyan

### ORDER

This Civil Revision Petition is directed against an order dated 12.11.2019 passed in I.A.No.433 of 2019 in O.S.No.13 of 2018 on the file of the Court of District Munsif, Paramakudi.

2. The said application was filed under Or.6 R.17 r/w.Sec.151 of C.P.C seeking amendment of plaint in so far as schedule of the property is concerned. As seen from the affidavit filed in support of the said application, the said amendment was sought to be made basing upon the measurement furnished by the Advocate Commissioner appointed in the said suit. The said application was dismissed by the learned Trial Court on the ground that the petitioners cannot be allowed to change the description of the property and they are entitled only to the extent they were in possession of property as per the Commissioner's report. Further, the learned Trial Court held that the possession of property can be proved by the petitioners by way of title deeds and revenue records and the amendment sought in the present application is



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not supported by admissible documents such as title deeds and revenue records. The Trial Court also further observed that if in case the said petition is allowed, the respondents will be put to irreparable loss and prejudice and the said application is intended only to delay the proceedings of the case.

3. Heard the learned counsel on either side and perused the entire materials on record.

4. It is well settled law that an application filed seeking amendment of the pleadings under Or.6 R.17 of C.P.C is to be liberally considered by the Courts in order to avoid multiplicity of the litigation and also to decide the matter once for all between the parties. But in the case on hand, the learned Trial Court appears to have lost sight of well settled legal position. As it is evident from the application filed under Or.6 R.17 the proposed amendment is sought basing upon the Advocate Commissioner's report. Even if there is no such Advocate Commissioner's report, once the petitioners realised that the description of the property mentioned in the suit schedule is not correct, it is always open to the petitioners to seek amendment of the same. In the



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instant case, the total extent of land in respect of which declaration of title is sought i.e., 54 cents remains unaltered even in terms of the amendment sought by the petitioners. It is only the measurements of the suit schedule property are sought to be amended. Ultimately, if the petitioners adduce the relevant evidence in support of their case and satisfy the learned Trial Court then only they will succeed in the suit. If they fails to establish their claim in the suit scheduled property as amended the petitioners would fail. The question of petitioners producing any admissible documents in support of the amendments at the time of considering the application for such amendment does not arise. Though, learned Trial Court observed that such an amendment would cause irreparable loss and prejudice to the respondents, it is not stated as to how such prejudice would be caused.

5. This Court is at loss to understand as to how any prejudice would be caused to the respondents herein in case if the amendment as sought for is permitted. The suit is of the year 2018 and the present application under Or.6 R.17 was filed in the year 2019 i.e much prior to the commencement of Trial in the suit. Hence, the observation of the learned Trial Court that the said



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application is intended to delay the said proceedings of the case is also totally unsustainable.

6. In the light of the above and taking into consideration the settled legal position that the applications seeking amendment of pleadings are to be considered liberally, this Court is of the considered view that the order passed by the learned District Munsif, Paramakudi in I.A.N.433 of 2019 in O.S.No. 13 of 2018 dated 12.11.2019 refusing amendment is unsustainable and the same is set aside.

7. Accordingly, the Civil Revision Petition is allowed, and consequently I.A.N.433 of 2019 in O.S.No.13 of 2018 on the file of the learned District Munsif, Paramakudi is allowed permitting amendment as sought for in the said application.

**13.03.2024**

NCC : Yes/No  
Index : Yes/No  
Internet : Yes  
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**MUMMINENI SUDHEER KUMAR, J.**

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To

The District Munsif, Paramakudi

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