



CRP(MD).No.184 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 22.11.2024

CORAM

THE HONOURABLE MRS JUSTICE K. GOVINDARAJAN THILAKAVADI

C.R.P(MD)No.184 of 2022 and
CMP(MD).No.810 of 2022

S.K.Kalyani (died)
Kamarajar

: Petitioner / Plaintiff

Vs.

1.Karuppannan
2.Muthammal
3.Vengatesh

: Respondents / defendants

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order made in I.A.No. 973 of 2017 in O.S.No.215 of 2014 on the file of the Principal District Munsif Judge, Karur, dated 23.03.2021.

For Petitioner : Mr.S.Gokulraj

For respondents : Mr.S. Venkatesh

ORDER

This Civil Revision Petition is preferred against the fair and decreetal order, dated 23.03.2021 made in I.A.No.973 of 2017 in O.S.No.



CRP(MD).No.184 of 2022

215 of 2014 on the file of the Principal District Munsif Court, Karur.

WEB COPY

2. The revision petitioner as plaintiff filed the above suit in O.S.No. 215 of 2014 on the file of the Principal District Munsif Court, Karur for the relief of mandatory injunction and permanent injunction and for directing the defendants to remove the grill gate and insertion of the two hooks in the plaintiff's exclusive wall put up by them in the suit "B" schedule lane and other obstructions made by them in the suit "B" schedule lane and other relief. The revision petitioner took out an application in I.A.No.973 of 2017 on the file of the Principal District Munsif Court, Karur for amendment to amend the Survey Number mentioned in the plaint schedule. According to the revision petitioner, based on the report filed by the Advocate Commissioner, he came to know about the new Sub Division S.F.No.1470 / 2T, which was bifurcated from the original S.F.No.1470 / T. The report of the Advocate Commissioner was filed after surveying the property and therefore, it has become necessary to amend the plaint schedule by amending the Survey Number in the suit property. However, the trial Court dismissed the said application stating that without carrying out ratification in the parent title deed, the petitioner is not entitled to amend the plaint schedule in the suit. Aggrieved by the same, the present



CRP(MD).No.184 of 2022

revision is preferred.

WEB COPY

3. The learned counsel appearing for the revision petitioner / plaintiff would submit that based on the report filed by the Advocate Commissioner, the revision petitioner sought for amendment of the Survey Number in the plaint schedule. However, four boundaries in the suit schedule is not changed and the amendment is sought only to include the present sub division Number and therefore, the trial Court ought to have allowed the said application for amendment and decide the suit. Therefore, the order passed by the trial Court calls for interference by this Court.

4. On the other hand, the learned counsel appearing for the respondent would submit that since the defendants have taken the defence that the suit property is not within the survey number mentioned in the sale deed and therefore, the proposed amendment would change the nature of the suit and prays for dismissal of this Civil Revision Petition.

5. Heard both sides and perused the materials available on record.

6. It is a specific case of the revision petitioner that wrong Survey



CRP(MD).No.184 of 2022

Number has been mentioned in the plaint schedule and the same came to the knowledge of the revision petitioner only through the report filed by the Advocate Commissioner, who inspected the suit property and therefore, amending the Survey Number based on the Advocate Commissioner's report would not change the nature of the suit and moreover the boundaries are same. His further contention is that the plaintiff has also taken steps to rectify the defect on the sale deed and hence, it has become necessary to amend the plaint for correcting the Survey Number, which was wrongly mentioned at the time of filing of the suit. It is also stated that four boundaries remains the same and the amendment sought only to include the new sub division. Hence, no prejudice will be caused. This Court finds substance in the arguments made by the leaned counsel appearing on the side of the petitioner. By amending the plaint incorporating the New Sub Division the character of the suit will not be changed. Therefore, considering the facts and circumstances of the case this Court is of the opinion that the trial Court ought to have permitted the revision petitioner to carry out the amendment by allowing the amendment petition I.A.No. 973 of 2017. Hence, the order passed by the trial Court deems it fit to set aside the order of the trial Court which is under challenge. Accordingly, the impugned order, dated 23.03.2021 made in I.A.No.973 of 2017 in



CRP(MD).No.184 of 2022

O.S.No.215 of 2014 on the file of the Principal District Munsif Judge,
Karur is hereby set aside.

7. In the result, this Civil Revision Petition is allowed. The trial Court is directed to permit the petitioner to carry out necessary amendment in the suit schedule as prayed for in the application and proceed with the suit by giving sufficient opportunity to both parties to put forth their contentions and dispose of the suit on merits and in accordance with law. No costs. Consequently, the connected Miscellaneous Petition is closed.

22.11.2024

Index : Yes / No
Internet : Yes/ No
trp

To

The Principal District Munsif Judge, Karur



WEB COPY



CRP(MD).No.184 of 2022

K. GOVINDARAJAN THILAKAVADI, J.,

trp

C.R.P(MD)No.184 of 2022 and
CMP(MD).No.184 of 2022

22.11.2024