



C.R.P.(MD).No.337 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P.(MD).No.337 of 2022

and

C.M.P(MD)No.1451 of 2022

Jeyakumari

... Petitioner

Vs

Lazar

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to call for the records relating to Fair and decreetal order passed by Principal District Munsif Court, Padmanabhapuram in I.A. No.2 of 2020 in O.S. No.294 of 2014 dated 11-11-2021 and set aside the same.

For Petitioner : Mr.K.P.Narayanakumar,

For Respondent : Mr.R.Murugan

ORDER

The Civil Revision Petition is filed against the order passed in I.A.No.2 of 2020 in O.S.No.294 of 2014, dated 11.11.2021, on the file of the District Municipal Court, Padmanabham.



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2.The said Interlocutory Application was dismissed by the trial Court.

The Interlocutory Application was filed by the plaintiff to amend the plaint. The amendment, which was sprayed in the plaint is that in the description of the extent of the B schedule property, instead of two cents, it was proposed to be corrected as 452 square links. Similarly, in respect of C schedule property instead of 0.5 cents, it was proposed to be corrected as 89 Square links.

3.The case of the plaintiff is that the plaintiff is the owner of the A schedule property. She is using the C schedule property, which is a part of the B schedule property as pathway to her property, which is the only access to her property. The defendant is trying to encroach upon the pathway and hence the suit. The suit is resisted by the defendant by contending that whatever the portion in which, the defendant is in occupation, it is his exclusive property and the plaintiff has no right to injunct the defendant.

4.In that background. now at the trial stage, the present application is filed. The reason, which is stated in the application is that as per the Advocate Commissioner's report, the original extent as prayed for by the plaintiff may not be correct and therefore, the correct extent is now sought to be given. The said



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application is now dismissed. It can be seen that by the impugned amendment which is sought for, the plaintiff is only now trying to plead that the pathway is lesser than the original extent which is as prayed for and she is not claiming any extra extent.

5.In that view of the matter, the amendment application itself is not necessary. The plaintiff can accordingly put forth the arguments before the trial court and also let in evidence and therefore, this Court does not find any error in the ultimate decision of the trial Court in dismissing the amendment petition. With the above observation, the civil revision petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

6.Since the suit is of the year 2014, the trial Court is requested to take up the matter for expeditious disposal and dispose of the same in any event not lesser than six months, from the date of receipt of a copy of this order.

12.07.2024

NCC : Yes/No
Index : Yes / No
Internet: yes / No
LR



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To

1. The Principal District Munsif Court,
Padmanabhapuram.
2. The Section Officer, V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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D.BHARATHA CHAKRAVARTHY, J.

LR

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