



C.R.P.(MD)No.602 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P.(MD)No.602 of 2021

and

C.M.P.(MD)No.3345 of 2021

1.P.Subbulakshmi,

2.K.Ponraj.

... Petitioners

VS

1.A.Kalayarasi,

2.M/s.Indus Tower Limited,
represented by its Power Agent,
Sri Vari Sri Mathi 3 & 4 floor,
No.1045, Avinasi road,
Coimbatore Town,
Coimbatore.

... Respondents

PRAYER: Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 18.02.2021 made in I.A.No.100 of 2017 in O.S.No.31 of 2017 on the file of the Mahila Fast Track Court, Theni.

For Petitioners

: Mr.T.Lajapathi Roy
for Mr.S.Rajasekar



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For Respondents

for R1 : Mr.R.Suriyanarayanan
for R2 : Service awaited

ORDER

This Revision Petition has been filed challenging the order, dated 18.02.2021 made in I.A.No.100 of 2017 in O.S.No.31 of 2017, on the file of the Mahila Fast Track Court, Theni.

2. The revision petitioners are the defendants. The suit was filed by the first respondent/plaintiff for declaration of title.

3. At the time of filing of the suit, the first respondent/plaintiff had mentioned the suit schedule property as survey No.563/2, which is old survey number. During the course, an Advocate Commissioner was appointed and the Advocate Commissioner, after inspecting the property, had submitted his plan and report. The first respondent/plaintiff had come to know on the basis of the report furnished by the Advocate Commissioner that UDR survey number was not mentioned in the suit schedule property, which reflects in the Advocate Commissioner's report. The first respondent/plaintiff filed an



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application to amend the present UDR survey Nos.3172/41A, 41B, 41C.

4. The Written Statement was filed by the revision petitioners/defendants contending that if the survey number is altered as prayed by the plaintiff, the property of the revision petitioners/defendants will form part of the suit schedule property and he will lose the valuable property rights.

5. The Trial Court, after examining the contentious issues between the revision petitioners/defendants and the first respondent/plaintiff, on the application made by the plaintiff, permitted the amendment to be carried out. Challenging the same, the present Revision Petition.

6. The revision petitioner/defendant contends that the UDR survey number was very much available in the document, in which the plaintiff originally purchased the property in the year 1973 and thereafter, when the settlement deed was made in the year 2010, the first respondent/plaintiff was aware with regard to the UDR survey number. At this juncture, making of such application to include the UDR number will certainly caused prejudice



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as this application was filed during the trial stage.

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7. Per contra, the learned counsel appearing for the first respondent/plaintiff contends that the UDR survey number is only with regard to old survey number of the property in survey No.563/2.

8. Though a rival claim made by the revision petitioners/defendants as well as the first respondent/plaintiff with regard to the inclusion and amendment of the UDR survey number regarding old survey No.563/2 is the subject matter, it is not in dispute that the plaintiff had come to know the details of UDR survey number only when it was reported by the Advocate Commissioner. It is not in dispute that whether the survey number relating to survey No.563/2 and the UDR number as stated supra, where the plaintiff/first respondent has made amendment, is a subject matter for trial, by adducing relevant document or by comparing the same with the Revenue officials unless and until, the Correlation Certificate is filed before the Court. On the application made by the parties, which is for the Trial Court to decide upon the claim of the first respondent/plaintiff with regard to the survey No. 563/2 and UDR number as sought for in the amendment. Thus, the order



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passed by the Trial Court needs no interference, as it is only with regard to the amendment in UDR number.

9. The Trial Court shall exercise due caution at the time of trial and the Trial Court is directed to call for the Revenue records and the Correlation Certificate from the jurisdictional Tahsildar/Revenue Inspector as the parties to the suit may not be aware of the UDR details at the time of filing of the suit and at the time of filing of the written statement. As a Court of justice, the Trial Court is duty bound to found the truth with regard to the claim made by the plaintiff/first respondent as well as the revision petitioners/defendants herein.

10. As the suit is of the year 2017, the Trial Court is directed to conclude the trial within a period of one year from the date of receipt of a copy of this order. Either the plaintiff or the defendant is at liberty to make necessary amendment in the pleadings to summon the Tahsildar or the Revenue Inspector to find out the survey No.563/2 and the amendment as sought for in UDR Nos.3172/41A, 41B, 41C.



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11. With above observations, this Civil Revision Petition is disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

12.12.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
apd

To

1. The Judge,
Mahila Fast Track Court, Theni.



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N.SENTHILKUMAR,J.

apd

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