



C.R.P.(MD)No.759 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.759 of 2024
and C.M.P.(MD).No.4129 of 2024

1.A.Subramanian
2.Valarmathi
3.Susila
4.Balamani ... Petitioners/Respondents/Judgment Debtors

Vs.

1.A.Chellammal
2.P.Vasanth
3.P.Saroja
4.S.Vanitha
5.P.Sadaiammal ... Respondents/Petitioners/Decree Holders

PRAYER : Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the fair and decreetal order, passed in I.A.No.1 of 2019 in O.S.No.343 of 2003, dated 06.03.2020 on the file of Principal Subordinate Judge, Tiruchirappalli.

For Petitioners : Mr.V.Karuna

For Respondents : Mr.M.Siddharthan for R1
Mrs.V.Sujatha for R2 & R3
Mr.K.Pandi Priya for R4 & R5



C.R.P.(MD)No.759 of 2024

ORDER

WEB COPY

This revision petition has been filed to set aside the fair and decreetal order, passed in I.A.No.1 of 2019 in O.S.No.343 of 2003, dated 06.03.2020 on the file of Principal Subordinate Judge, Tiruchirappalli.

2.The facts in brief:

Suit in O.S.No.343 of 2003 was filed by the respondent herein seeking the relief of partition and separate possession of their 5/9th share. The suit was decreed with cost. After that final decree application was filed. That was also allowed. Later I.A.No.1 of 2019 was filed by the plaintiff/decreed holders, stating that at the time of final decree proceedings, the Commissioner found that in the plaint, item No.4 is wrongly mentioned. The correct survey number is only 747/1A3. But it was wrongly mentioned as 744A/8. During the course of trial process there was no issue between the parties over the identity of the property. Only survey number was wrongly mentioned. So it must be corrected by way of amendment.

3.That was resisted by the revision petitioner stating that the



C.R.P.(MD)No.759 of 2024

survey number was wrongly mentioned, but with intention. The second appeal was preferred, now pending before this Court. The trial Court after finding that there was no issue with regard to the identity of the fourth item decreed the suit. So the survey number which was wrongly mentioned in the plaint may be ordered to be corrected by way of amendment. Against which, this revision is preferred.

4.The Commissioner report is filed in I.A.No.556 of 2017 is placed before the Court. Item No.4 is mentioned as S.No.747/1A3. As mentioned by the respondent, it is the correct survey number found out by the Commissioner at the time of taking out the measurement. In the plaint, the survey number is mentioned as 744A/8 which is apparently mistake. But this mistake was not found out during the course of trial or appellate stage because there is no issue with regard to the identity of the properties. So no discussion was made by the trial Court in this aspect. So the contention on the part of the revision petitioner that there was intentional omission or mistake on the part of the respondent is not supported by any circumstantial evidence. So I find absolutely no reason to interfere into the order passed by the trial Court and accordingly,



C.R.P.(MD)No.759 of 2024

revision is liable to be dismissed.

WEB COPY

5. Accordingly, this civil revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
TM

To

1. The Principal Subordinate Judge, Tiruchirappalli.
2. The Section Officer,
E.R. Section/V.R. Section,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



C.R.P.(MD)No.759 of 2024

G.ILANGO VAN,J.

TM

C.R.P.(MD)No.759 of 2024

10.12.2024