



WEB COPY

CRP.No.731 of 20



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2025

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.731 of 2023

& CMP.No.5680 of 2023

1.S.Baskar

2.Vasantha Ammal

... Petitioners

Vs.

1.C.Mohanraj

2.C.Kumar

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 23.08.2022 in I.A.No.356 of 2021 in O.S.No.127 of 2021 on the file of the Principal District Munsif, Cuddalore and allow the C.R.P.

For Petitioner : Mr.R.Sunilkumar

For Respondents : Mr.N.R.Rajagopalan for R1

No appearance for R2

ORDER

This Civil Revision Petition is filed as against the dismissal of the amendment application taken out by the plaintiffs. The plaintiffs had described the property in 'A' Schedule which has been comprised in S.No.152/1 to an extent of 1.15 acres. The petitioner took out an application in I.A.No.356 of 2021 in the suit to substitute the old Survey



WEB COPY

No.160/4 to an extent of 1.27 acres. The said application was resisted by the defendants and the trial Court finding that the sale deed in favour of the plaintiffs mentioned only an extent of 1.15 acres in S.No.152/1, proceeded to dismiss the amendment application, against which, the plaintiffs are before this Court.

2. Learned counsel for the petitioners, relying on the sale deed dated 17.02.1970 contended that, in the schedule, it has been mentioned old Survey Number as S.No.160/4 to an extent of 1.27 acres and new Survey No.152/1 measuring 1.75 acres and he therefore stated that since the suit is for declaration, the plaintiffs would have to necessarily fall back on the sale deed executed in favour of to the plaintiffs and, in order to include the larger extent, which is also finding place in the sale deed, the amendment application was filed.

3. However, the learned counsel for the first respondent would submit that the amendment as sought for by the petitioners to substitute the extent of 1.27 acres in the place of 1.15 acres is not permissible. Even in the sale deed, there are two different survey numbers with two different extents. Further, it is the case of the first respondent that taking advantage of the larger extent, the petitioners are trying to infringe upon the rights of the



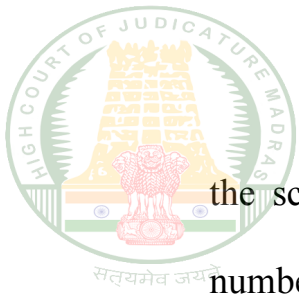
WEB COPY

respondents and the Revenue records would also only point in favour of the respondents/defendants. Be that as it may, by ordering an amendment application, the case of the plaintiffs is not going to be accepted and even if the amendment is ordered, the plaintiffs have to still establish their case under law with satisfactory evidence.

4. Heard the learned counsel for the petitioners and the learned counsel for the first respondent. There is no representation for the learned counsel for the 2nd respondent.

5. It is seen from the sale deed that there are two extents mentioned- one pertaining to old Survey No.160/4(1 acres 27 cents) and new Survey No.152/1(1 acres 15 cents). The plaintiffs have chosen to incorporate only the lesser extent of 1.15 acres and now they wanted to introduce an amendment to include the larger extent of 1.27 acres. I see no merit in the objection that the amendment could not be ordered as the larger extent admittedly does not find a place in the registered sale deed.

6. Admittedly, the sale deed refers to the larger extent of 1.27 acres in Survey No.160/4 and therefore, I am of the opinion that no serious prejudice would be caused to the respondents/defendants if the amendment is ordered. However, the plaintiffs while carrying out the amendment shall incorporate



CRP.No.731 of 20



the schedule as available in the sale deed by mentioning the old survey number with the extent available and also the new survey number and the extent available for the same.

7. With the above observation, this Civil Revision petition is allowed.

No costs. Consequently, connected miscellaneous petition is closed.

04.07.2025

Speaking/Non-speaking : Yes/No

Index : Yes / No

msv

To

The Principal District Munsif, Cuddalore



WEB COPY

CRP.No.731 of 20



P.B. BALAJI,J.

msv

CRP.No.731 of 2023
& CMP.Nos.18441 of 2024

04.07.2025