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C.R.P.(PD) No.2871 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.03.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD) No.2871 of 2024
and CMP.No.15260 of 2024

1.J.Gowtham Raj
2.J.Sanjai Raj

... Petitioners

Vs.

1.K.Srinivasan
2.Annapoorani
3.G.Thulasi
4.T.Vadivel

5.The Tahsildar
J.N.Road, Thiruvallur Taluk
Thiruvallur District.

6.The Revenue Division Officer
J.N.Road, Thiruvallur Division
Thiruvallur.

7.The District Revenue Officer
Collectorate Office
Thiruvallur.

8.The District Collector
Collectorate Office
Thiruvallur District.

... Respondents



Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order passed by the learned Additional District Munsif, Tiruvallur made in I.A.No.4 of 2023 in O.S.No.186 of 2016, dated 18.03.2024 and thereby allow this civil revision petition.

For Petitioner : Mr.A.R.Suresh
For Respondents : Mr.J.R.K.Bhavanantham [R1 to R4]
Mr.N.Muthuvel
Government Advocate for R5 to R8

ORDER

Challenging the dismissal of their application in I.A.No.4 of 2023 in O.S.No.186/2016, filed for amending the plaint, the plaintiffs are before this Court . parties would be referred to by their rank before the Court below.

2. The facts are briefly set out herein below :

- a. The plaintiffs have filed a suit in O.S.No.186/2016 on the file of District Munsif, Tiruvallur, seeking the following relief :
 - i. To declare the plaintiffs' right and title over the suit schedule mentioned property;
 - ii. For consequential injunction restraining the defendants 1 to 4, their men, agents or subordinates on any manner



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C.R.P.(PD) No.2871 of 2017



- interfering with the peaceful possession and enjoyment of the property;
- iii. To specify and demarcate and to fix the boundary of the suit schedule mentioned property by appointing an Advocate Commissioner along with Taluk Surveyor.
- iv. To declare the settlement deed in favour of first defendant dated 22.07.2015 vide Doc.No.2878/2015 on the file of SRO Manavalanagar as null and void;
- v. To declare the settlement deed in favour of third defendant dated 22.07.2015 vide Doc.No.2879/2015 on the file of SRO Manavalanagar as null and void;
- vi. For permanent injunction restraining the defendants 5 to 8, their men, agents or subordinates from conducting any mutation of revenue records with regard to the suit schedule mentioned property;
- vii. For such other relief as the Court deems fit in the circumstances of the case.
- b. It is averred in the plaint that the originally an extent of 1.60 acres in Sy.No.17/1 belonged to one Chellammal, Rajeshwari



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C.R.P.(PD) No.2871 of 2022

Ammal and Thulukkanam family. Out of this extent, Rajeshwari Ammal and Chellammal had alienated an extent of 0.40 cents each with specific boundaries to the two sons of Amirthalingam namely Dhananzheiyar and Parameshwaran respectively on 14.07.1975 and 18.04.1999. The extent that remained is 0.80 acres. This extent was enjoyed by Thulukkanam family.

- c. Thereafter, on 09.01.1981, the plaintiffs grandfather Mari had purchased 0.80 acres from the said Dhananzheiyar and Parameshwaran and had been in exclusive possession and enjoyment of the property. The patta was also transferred in the name of Mari in patta number 3027 and after sub-division, the property which was in occupation of the plaintiffs' grandfather was assigned Sy.No.17/C.
- d. On 28.05.2010, Mari had settled the property in favour of his grandsons, the plaintiffs herein, who were then minors. On their attaining majority, they were put in possession of the property.
- e. Sometime in July 2015, defendants 1 to 4 attempted to trespass



WEB COPY

C.R.P.(PD) No.2871 of 2022



into the property. The defendants 1 to 4 would contend that the plaintiffs are entitled to only 0.60 cents. This resulted in complaints and counter complaints before the Revenue Authorities.

- f. The plaintiffs had applied for encumbrance certificate of the said property, which revealed that the second defendant had settled an extent 0.50 acres in favour of the first defendant and likewise, the fourth defendant had settled an extent of 0.50 acres in favour of the third defendant. This according to the plaintiffs is a forged settlement deed.
- g. The plaintiffs would submit that the said Thulukannam had sold an extent of 0.40 acres from and out of the total extent of 1.60 acres in Survey No.17/1 to one Selvanathan on 22.09.1983. In the sale deed, the plaintiffs land has been shown as the southern boundary. Thereafter, on 24.03.2003, the said Selvanathan had alienated this land of 0.40 acres to the second defendant, Annapoorani, within specific boundaries. Therefore, the plaintiffs would question as to how the said Annapoorani could settle an extent of 0.50 acres in favour of the first defendant on



WEB COPY

C.R.P.(PD) No.2871 of 2017



22.07.2015, when she has purchased only an extent 0.40 acres of land alone. Therefore, the second defendant had wantonly and deliberately created a document in favour of the first defendant for 0.50 acres, while she is having a right over an extent of 0.40 acres only. The first respondent is none else than the husband of the second defendant. Therefore, they both have colluded and executed the alleged settlement deed dated 22.07.2015.

- h. After the alienation of 0.40 acres in favour of Selvanathan on 22.09.1983, Thulukanam alienated another extent of 0.40 acres in favour of one Lakshmanan, who in turn had alienated the said extent to Vadivel, the fourth defendant on 04.09.2008, through his Power of Attorney. The said Vadivel settled an extent of 0.50 acres in favour of the third defendant, who is none else his mother, on 22.07.2015, while he admittedly owned only an extent of 0.40 acres.
- i. Taking advantage of these fabricated documents, the respondents 1 to 4 are attempting to trespass into the property and also got the revenue records mutated in their names, in



excess extent.

Hence, the plaintiffs / revision petitioners have filed the suit in question seeking aforementioned reliefs.

3. The defendants 1 and 3 have filed their individual written statement in the year 2018 itself. Their contentions in the written statements are narrated as below :

- (a) The first defendant / first respondent had filed a written statement denying the allegations contained in the plaint. They would submit that the plaintiffs' grandfather Mari had fabricated the documents for a larger extent, though he is entitled only to an extent of 62 cents. He however managed to obtain the revenue records for an extent of 80 cents. The first defendant would submit that neither Chellammal nor Rajeswariammal had any title over the property in Sy.No.17/1. The property in Sy.No.17/1 measuring an extent of 1.60 cents belonged to one Chinnammal, wife of Kuttipillai. After the UDR, the Sy.No.17/1 was divided into Sy.No.17/1A and 17/1B. The property in Sy.No.17/1A measured an extent of 98 cents and it belonged to Chinnammal vide patta No.238; and the



WEB COPY

C.R.P.(PD) No.2871 of 2022



property in Sy.No.17/1B measuring an extent of 62 cents belonged to Mari vide patta No.473. Thereafter, the first defendant had purchased an extent of 0.50 cents from the legal heirs of Chinnammal and was enjoying the specific boundaries in Sy.No.17/A. Therefore, the property of this defendant in Sy.No.17/A is in no way connected with the suit property. The first defendant denied that he had trespassed into the property of the petitioners. The first defendant in his written statement had clearly stated that the boundaries mentioned in the document as well as in the suit are totally wrong. The description of the northern boundary in the suit schedule as Sy.No.17/1B is wrong.

(b) The third defendant had filed a written statement more or less adopting the written statement of the first defendant / first respondent. It is also the case of the third defendant that the property in Sy.No.17/1 measures an extent of 1.60 acres, which is sub-divided into Sy.No.17/1A and Sy.No.17/1B and the lands described as Sy.No.17/1C is not in existence. The third defendant would submit that this defendant and defendants 1,2 and 4 are



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C.R.P.(PD) No.2871 of 2022

enjoying the entire extent in Sy.No.17/1A. To substantiate his claim that Mari, the grandfather of plaintiffs was entitled to 62 cents in SyNo.17/1B, he had referred to the mortgage deeds which Mari and the plaintiffs has executed in favour of certain Co-operative Banks in their locality with respect to their property Sy.No.17/1B, and which later were cleared by them.

Therefore, both the defendants sought for dismissal of the suit.

4. After the examination of the P.W.1 and P.W.2, the petitioners have come forward with the amendment application, which is the subject matter of revision. In the affidavit filed in support of this application, the petitioners would submit that the survey number has been wrongly shown as 17/1C instead of 17/1B. Since the survey number has been changed, the boundaries also had to be changed, particularly, the boundaries on the north and the east.

5. The third defendant/third respondent had filed a counter to the said I.A., which has been adopted by respondents 1 and 4, wherein they would submit that the amendment is nothing but an attempt to fill up a lacunae and



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it is highly belated. Mari, as P.W.2 during his cross-examination has admitted that the entire extent of property in Sy.No.17/1 is 1.60 cents, of which, 98 cents falls within the share of Chinnammal and 62 cents fell to his share. The petitioners who claim under the said Mari, are therefore entitled to an extent of 62 cents only. However, the petitioners have managed to obtain patta in respect of Sy.No.17/1C measuring an extent of 80 cents. In the counter, the third defendant has extracted the various admissions of P.W.1 and P.W.2, and these admissions would be set at naught by these amendments. That apart, the subject matter itself would differ. Therefore, a fresh suit for declaration in respect of the same cause of action would come into existence, when such a relief for declaration is barred by limitation on the date of the application.

6. The learned Additional District Munsif, Tiruvallur has held that when the subject matter of the suit becomes totally differed as also the suit property, the amendment is not maintainable, as the amendment would introduce a new subject matter and would introduce a new case. Accordingly, the said I.A. for amendment of the plaint cannot be entertained and the same was dismissed.



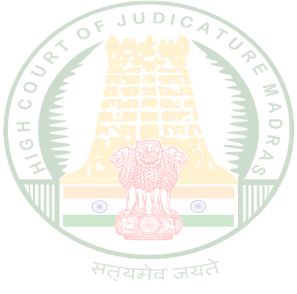
WEB COPY

C.R.P.(PD) No.2871 of 2024



7. Heard the learned counsels on either side.

8. The respondents/defendants in their counters to the amendment application in I.A.No.4 of 2023 in O.S.No.186 of 2016, have contended that they have obtained several admissions from P.W.1 and P.W.2, that the plaintiffs owned only an extent of 62 cents in Sy.No.17/1B. Further, in the written statement of the third respondent / third defendant, it has been clearly stated that there is no Sy.No.17/1C in existence. This written statement has been filed as early as 2018, and the the plaintiffs have come forward to amend the plaint only when the matter was listed for arguments. The petitioners/plaintiffs through this amendment, not only seeks to change the survey numbers of the suit schedule property, but also seek to change the boundaries, which would give rise to a new cause of action and a new suit property. Therefore, the application filed in I.A.No.4/2023 in O.S.No.186 of 2016 to amend the plaint cannot be entertained at this stage and the learned Additional District Munsif, Tiruvallur, has rightly rejected the said I.A. I see no reason to interfere with the well considered judgment of the learned Judge dated 18.03.2024 in I.A.No.4/2023 in O.S.No.186 of 2016.



C.R.P.(PD) No.2871 of 2024

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9. Accordingly, the civil revision petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

17.03.2025

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes / No
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C.R.P.(PD) No.2871 of 2022

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To:

- 1.The Additional District Munsif
Tiruvallur.
- 2.The Section Officer
VR Section, High Court, Madras.



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C.R.P.(PD) No.2871 of 2024

P.T. ASHA, J.

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C.R.P.(PD) No.2871 of 2024

17.03.2025