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CRP(NPD) No.2627 & 2629 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 24.07.2025

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.R.P (NPD) No.2627 and 2629 of 2025

1.Bharathi
2.Saravanan

... Petitioners
in both petitions

..Vs.

1.Dhandapani
2.Chakravarthi
3.Kalaiselvi
4.Premkumar

... Respondent
in both petitions

Prayer in CRP No.2627 of 2025: This Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the fair and decreetal order dated 09.02.2024 in I.A.No.2 of 2019 in O.S No.92 of 2014 passed by the Additional District Munsif, Thirupathur.

Prayer in CRP No.2629 of 2025: This Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the fair and decreetal order dated 09.02.2024 in I.A.No.1 of 2019 in O.S No.92 of 2014 passed by the Additional District Munsif, Thirupathur.

For Petitioner : Mr.S.Bruno Cruz

For Respondents : No appearance

COMMON ORDER



CRP(NPD) No.2627 & 2629 of 2025

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Challenge has been made to the orders of the trial Court/Additional District Munsif, Thirupathur, dismissing the two applications filed under Order VI Rule 17 and Section 152 of CPC to amend the survey number in the plaint as well as in the preliminary decree.

2. The suit has been originally filed for claiming partition as against the respondents and a preliminary decree was passed on 01.03.20218, declaring that the petitioners are entitled to 2/5 shares. That decree and judgment had reached its finality as the appeal filed in A.S No.24 of 2018 was dismissed on 27.01.2023. When the matter is pending for passing of final decree proceedings, after the Commissioner had visited the property, he found that the survey number mentioned in the preliminary decree as well as the plaint are not correct. Based on that, two applications in I.A Nos.1 and 2 of 2019 have been taken out to amend the survey number of the second item of the property from 412/2B3 to Survey No.412/2B6, similarly in respect of third item, the amendment was sought from Survey No.427/1C12 to Survey No.427/1C13 and also new Survey No.427/9 and 427/11. However, the



said applications have been opposed by the respondents on the ground that they had raised the issue even before passing a final decree. With regard to the survey number, without making amendment even before passing a final decree, after passing a preliminary decree, amendment is not maintainable. The trial Court had dismissed the said applications.

3. Heard both sides and also perused the materials available on record.

4. The fact that the mistake crept in the survey number is not in dispute. In fact, the respondents themselves have also admitted that there is a mistake in survey number and it should be corrected. They raised such a defence earlier. However, the same has not been corrected. Only during the final decree proceedings, when the Commissioner has pointed out the survey number as per the survey report, two applications have been taken out to correct the survey number as stated above and when the parties in the lis not disputing the mistake crept in the survey number, this Court is of the view that the trial Court ought to have allowed the amendment.



5. Ofcourse, an application filed under Order VI Rule 17 of

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CRP(NPD) No.2627 & 2629 of 2025

6. In the result, these two Civil Revision Petitions are
allowed. No costs.

24.07.2025

Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
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To
The Additional District Munsif, Thirupathur.

N.SATHISH KUMAR,J

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