



CRP.No.5732 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.5732 of 2025 and

CMP.No.28573 of 2025

Mr.S.Ganesan

... Petitioner

Vs.

1.Mr.G.Shanmugam

2. Mr.G.Arumugam

...Respondents

PRAYER :Civil Revision Petition filed Article 227 of Constitution of India, praying to set aside the order passed in fair and Decreetal order passed in IA No. 2 of 2023 in OS No. 317 of 2019 by the II Add. District Munsif at Salem, dated 13.10.2023.

For Petitioners

: M/s.K.Balaji



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ORDER

The civil revision petition is filed challenging the order passed by the Trial Court allowing the application filed by the respondents/plaintiffs seeking amendment of the plaint.

2. The respondents filed a suit for permanent injunction and mandatory injunction against the petitioner. It was the specific case of the respondents that petitioner/defendant encroached the suit B schedule property and hence, they sought for mandatory injunction to remove the encroachment and construction made by the petitioner in the suit B schedule property.

3. In the description of the property found in the plaint, the suit B schedule property was described with North-South measurement of 25 feet and

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East-West measurement of 7 feet. Pending suit, an Advocate Commissioner was appointed and he measured the property with the help of Surveyor and filed a report. As per the report filed by the Advocate Commissioner, the measurement of the alleged encroached portion mentioned as 3meter North-South and 0.7 meter East-West. Therefore, the instant application has been filed by the respondents seeking amendment of the measurements given in the plaint with regard to the suit B schedule property. Based on the Advocate Commissioner's report, the said application was allowed. Aggrieved by the same, the petitioner/defendant has come before this Court.

4. The learned counsel for the petitioner submitted that property shown as encroached portion by the Advocate Commissioner is not the property belongs to the respondents/plaintiffs. When the very title of the respondents/plaintiffs is seriously disputed and the petitioner filed objection to the Advocate Commissioner's report, the respondents are not entitled to seek amendment of the plaint based on the Advocate Commissioner's report.



5. Whether the alleged encroachment shown by the Advocate Commissioner is on the property belongs to the plaintiffs or defendant is a matter to be decided by the Trial Court at the time of final disposal based on the evidence to be let in by both the parties. At the stage of amendment application, the same cannot be considered. The Advocate Commissioner appointed by the Court has filed a report along with the plan mentioning the measurement of the alleged encroachment. Based on the said Advocate Commissioner's report, the respondents filed application seeking amendment of the plaint. The correctness of the findings given by the Advocate Commissioner and the title of the respondents are all issues to be decided at the time of final disposal. Therefore, the Trial Court rightly allowed the amendment application. If the petitioner is aggrieved, it is always open to him to file additional written statement and raise all his defenses. With this liberty, the civil revision petition stands dismissed. Consequently, the connected miscellaneous petition is closed. No costs.



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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes/No

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To

The II Additional District Munsif, Salem,



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