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C.R.P.No.5334 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2025

CORAM

THE HONOURABLE MR.JUSTICE **V. LAKSHMINARAYANAN**

C.R.P.No.5334 of 2024
and C.M.P.No.29618 of 2024

1.Selvam
2.Selvi

.. Petitioners

VS

1.Periyannan
2.Govindasamy
3.Athi
4.Periyakuzhandai
5.Kasi
6.Sekar
7.Malar
8.Amutha
Munusamy (died)
9.Visalakshi
10.Shanthi

.. Respondents

Petition filed under Article 227 of the Constitution of India to set aside the decree and order passed by the Additional Subordinate Court, Vellore dated 03.10.2024 in I.A.No.3 of 2024 in O.S.No.120 of 2010.

For Petitioners : Mr.Thennarasu
for Mr.Y.Kaja Nivas

For Respondents : No appearance



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ORDER

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This Civil Revision Petition challenges the order passed by the learned Additional Subordinate Judge at Vellore in I.A.No.3 of 2024 in O.S.No.120 of 2010.

2. O.S.No.120 of 2010 is a suit for partition and separate possession. It is not necessary to go into the details of the plaint and written statement for the purpose of disposal of this revision. Suffice it to state that the defendants had filed the written statement, issues have been framed, evidence has been recorded and the matter was listed for arguments.

3. At that stage, the plaintiffs filed an application in I.A.No.3 of 2024 seeking amendment of the plaint. According to the plaintiffs, the extent of the property that had been given in the schedule to the plaint suffers from a typographical error and similarly, the addresses of the legal representatives have also been erroneously stated. Hence, they have filed an application to correct these errors.



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8. Referring to Order VI Rule 17 CPC, Mr.Thennarasu pleads that for the purpose of determining the real controversy between the parties, the amendment application has become essential. He states that even post amendment, the plaint continues to be one for partition and, therefore, the learned Trial Judge erred in dismissing the application. He points out neither cause of action nor the frame of the suit has changed and hence seeks for revision of the order.

9. I have carefully considered the submissions of Mr.Thennarasu.

10. The suit is for partition. The plaint, even if the amendment is granted, continues to be one for partition. In fact as rightly contended by Mr.Thennarasu, if the amendment is ordered, the extent for which partition is sought for is not being enlarged but is being reduced. Therefore, no prejudice would have been caused to the defendants if the amendment had been ordered. Similarly, if the correct addresses of the parties are brought on record, then it would assist the Court at the time of drafting the decree.

11. The purpose of proviso to Order VI Rule 17 CPC was not to bar amendments in the nature of typographical errors. It was to



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prevent the proceedings from being unnecessarily dragged on by filing one application after another and to ensure that parties proceed with suits with earnest.

12. I have gone through the amendments sought for. I am satisfied that it neither changes the frame of the suit nor the cause of action. For the mere fact that it is post trial amendment, it does not mean it deserves dismissal. At the same time, the interest of the second respondent has to be taken into consideration.

13. In the light of the above discussion, the civil revision petition is allowed on the following terms:

(i) *The order passed by the learned Additional Subordinate Court, Vellore in I.A.No.3 of 2024 in O.S.No.120 of 2013 dated 03.10.2024 is set aside on condition that the petitioners pay a sum of **Rs.7,500/-** to the contesting second respondent within a period of **four weeks** from the date of receipt of a copy of this order;*

(ii) *Since the plaintiffs did not seek any amendment in the pleading portion but only in*



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the schedule, by virtue of this order, the plaintiffs will not be entitled to reopen the evidence;

(iii) The Court shall receive the amended plaint copy and additional written statement from the second respondent, if any, confine to the amendments which have been granted and thereafter proceed and pronounce the judgment in the suit; and

(iv) In case, the costs of Rs.7500/- is not paid within the time fixed by this court, the civil revision petition will stand dismissed without further reference to this Court.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

23.01.2025

Index:Yes/No
Neutral Citation:Yes/No
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To

The Additional Subordinate Court,
Vellore.



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V. LAKSHMINARAYANAN,J.

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