



C.R.P.(PD)(MD) No.115 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	03.01.2025
Pronounced on	23.01.2025

CORAM

THE HON'BLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.R.P.(MD) No. 115 of 2023 and
CMP(MD).No.548 of 2023

1.Chinnaiyan
2.Krishnamoorthy
3.Jeyaraman
4.Rajendhiran

... Petitioners / Plaintiffs

Vs.

1.Sankar
2.Suba

.. Respondents / defendants

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order passed in I.A.No.3 of 2021 in O.S.No.308 of 2013, dated 03.09.2022 on the file of the Additional District Munsif, Trichy District.

For Petitioners : Ms. M. Anbarasi

For respondents : Mr.K.Prabhakar

ORDER

This revision is preferred against the order, dated 03.09.2022 made



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in I.A.No.3 of 2021 in O.S.No.308 of 2013, on the file of the Additional District Mnsif, Lalgudi, Trichy District.

2. The revisions petitioners as plaintiffs filed the above suit in O.S.No.308 of 2013 on the file of the Additional District Mnsif, Lalgudi, Trichy District for permanent injunction. Pending suit, the revision petitioners / plaintiffs filed an application in I.A.No.3 of 2021 to amend the plaint stating that by mistake the extent of property has been wrongly mentioned in the schedule of property and therefore, it is required to amend the schedule of property with correct measurements. The said application was opposed on the side of the respondents / defendants. In the counter affidavit it is submitted that the case was filed in the year 2013 and the respondents / defendants have filed their written statement in which extension of the property was specifically denied. The respondents / defendants further submitted that, even after the filing of the Commissioner's report, the petitioners have not come forward to amend the plaint. Only after the case was posted for trial and the 3rd plaintiff was cross examined and when the question was raised with regard to the schedule of the property and since the answer was not satisfactory, the revision petitioners / plaintiffs have filed the present amendment petition



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to fill up the lacuna and hence, the petition is liable to be dismissed.

Considering the above submission, the trial Court dismissed the said application. Aggrieved by the same, the present Civil Revision Petition is preferred.

3. The learned counsel appearing for the revision petitioners / plaintiffs would submit that in order to elucidate the factual aspect for reaching just conclusion and to avoid multiplicity of proceedings, the trial Court ought to have allowed the said amendment petition.

4. On the other hand, the learned counsel appearing for the respondents / defendants would submit that the attempt of the revision petitioners / plaintiffs is only to fill up the lacuna and therefore, the trial Court has rightly dismissed the application which calls for no interference by this Court.

5. Heard on both sides and perused the records.

6. The revision petitioners / plaintiffs filed the said suit in O.S.No. 308 of 2013 for permanent injunction and pending suit, the petitioners



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have filed an application under Order 6 Rule 17 CPC to amend the plaint for correcting the extension mentioned in the plaint schedule. Admittedly, in this case, the 3rd plaintiff was examined as PW.1. It is also not in dispute that PW.1 was cross examined by the defendants counsel to the effect that there is error in the extension of the property mentioned in the plaint schedule. In the amendment petition it is mentioned that due to mistake the correct extension was not furnished by the revision petitioners / plaintiffs. The learned counsel appearing for the revision petitioners submits that in order to arrive at a correct conclusion and to avoid multiplicity of the proceedings the said amendment is necessary. The said contention is opposed on the side of the respondents / defendants stating that the said amendment petition is only to fill up the lacuna since PW.1 was already cross examined by the defendants in respect of the extension of property. Admittedly, it is well settled that the Court may at any stage of the proceedings allow either party to alter, to amend his pleadings in such a manner and on such terms as may just and all such amendments shall be made as may be necessary for the purpose of determining the the real questions in controversy between the parties. Provided that no application for amendment shall be allowed after the trial has commenced unless the Court has come to the conclusion that in spite of due diligence



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the parties could not raise the matter before the commencement of trial.

However, if the Court feels that the amendment can be allowed, then it has to satisfy itself and furnish the reasons as to the fact that neither cause of action nor new cause of auction is set up. Therefore, in order to avoid multiplicity of proceedings and to resolve the real dispute between the parties and to render a decision more satisfactorily to the conscience of the Court, the amendment ought to have been allowed.

7. Adverting to the facts of the present case, it is clear that the amendment is for exact identification of the property. Even though the amendment is being brought after the commencement of trial, it is to the effect of clarifying the actual extension of the property. This Court is of the considered opinion that by allowing the said application it would no way prejudice the rights of the respondents / defendants. It is also added that it could not be stated that the respondents have accrued any right with mis-description of the property and by means of incorporation of the amendment their rights to be effected. Therefore, the amendment sought for by the revision petitioners in the present case deserves to be allowed by means of which no hardship would be caused to the respondents / defendants and they have got every opportunity to file an additional



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written statement containing objection to the amendment. In such view of this matter, the order passed by the learned Additional District Munsif, Trichy District, dated 03.09.2022 made in I.A.No.3 of 2021 in O.S.No. 308 of 2013 is liable to be set aside and accordingly, set aside.

8. In the result, this Civil Revision Petition is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

23.01.2025

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order/Non-Speaking Order

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The Additional District Munsif, Trichy District.



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K.GOVINDARAJAN THILAKAVADI, J.

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Pre-Delivery Order made
in
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CMP(MD).No.548 of 2023

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