



C.R.P(MD)Nos.229 and 230 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 31.01.2025

Pronounced on : 17.02.2025

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(MD)Nos.229 and 230 of 2024

Veeraiah

**... Petitioner / Petitioner / Plaintiff
(in both petitions)**

Vs

Raman (died)

1.Nevilinathan

2.Premkumar

3.Chinnammal

4.Thirumoorthy

5.Jayalakshmi

6.Eswari

7.Valarmathi

**... Respondents / Respondents / Defendants
(in both petitions)**

COMMON PRAYER : This Civil Revision petition is filed under Section 115 of Civil Procedure Code to set aside the fair and decreetal order dated 09.10.2023 passed in I.A.Nos.71 and 72 of 2018 in O.S.No. 57 of 2005 on the file of the learned Principal District Munsif Court, Dindigul.



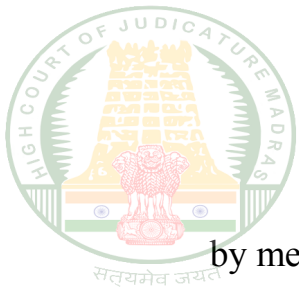
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WEB COPY For Petitioner : Mr.M.P.Senthil
For R1, R4 to R6 : Mr.T.Selvan
For R2 : Mr.M.Thirunavukkarasu

ORDER

This Civil Revision petition is filed to set aside the fair and decreetal order dated 09.10.2023 passed in I.A.Nos.71 and 72 of 2018 in O.S.No.57 of 2005 on the file of the learned Principal District Munsif Court, Dindigul.

2. The facts in brief is that the suit in O.S.No.57 of 2005 was filed by this revision petitioner seeking the relief of specific performance and costs. The suit was decreed on 13.10.2008. But a mistake was committed while drafting the plaint by not mentioning the survey number of the subject suit. In the plaint schedule, the four boundaries, extent and village, are properly mentioned. When E.P., proceedings were taken in E.P.No.134 of 2016, the above said mistake came to their notice. So I.A.Nos.71 and 72 of 2018 were filed. To amend the plaint and decree,



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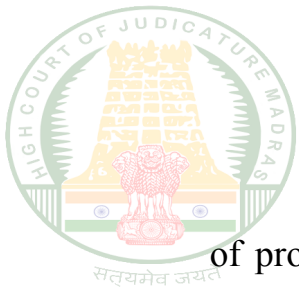
by mentioning the survey number as 149/1E. An application was filed by the revision petitioner.

3. It was resisted by the respondent herein by filing counter contending that it may result in change of cause of action. By suppressing the clear description of the property, these petitions are filed. If the petitions are allowed, the right of the respondent may be seriously prejudiced.

4. After hearing both sides, both the applications came to be dismissed by the trial Court against which these two separate revisions are preferred.

5. Heard both sides.

6. Learned counsel for the revision petitioner has produced a copy of the sale agreement wherein we find that in the description of the property, the survey number is mentioned as 149/1E, situated in Anjukulipatti Village, Dindigul Taluk. Now in the plaint, the description



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of property is mentioned as 21 cent in Anjukulipatti Village, Dindigul, within the specified four boundaries. The presence of a dilapidated tiled house is also mentioned. Now we will go to the statement filed by the respondent as to see whether there was any issue with regard to the identification of the property under the sale agreement between the parties. It has been stated in the written statement that the document is a created and forged one. At the time of borrowing loan amount, their signatures were obtained in the blank papers, stamp papers, etc. The description of the property mentioned in the plaint is not correct. Presence of a big tiled house is not mentioned apart from the standing trees.

7. Reading of the written submission filed by the respondent herein indicates that no issue was raised regarding the identity of the property. Only in case of identity issue, we can appreciate the order of the trial Court. But here absolutely there is no issue with regard to the identity, stating that it is nothing but a mistake committed by the advocate while drafting the plaint. For the mistake committed by the advocate, the parties should not suffer. Moreover, when it is clear on record that it is



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nothing but a clerical mistake, so I find the reason assigned by the trial Court is devoid of merits.

8. Therefore, these Civil Revision Petitions are liable to be allowed. Accordingly, allowed. The petitions filed in I.A.Nos.71 and 72 of 2018 in O.S.No.57 of 2005 on the file of the learned Principal District Munsif Court, Dindigul are allowed, on condition that the revision petitioner must pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to the respondent and on the cost being paid and a memo is filed, the Principal District Munsif Court, Dindigul, is directed to restore the I.A.Nos.71 and 72 of 2018 to its file and proceed in accordance with law. No costs.

17-02-2025

NCC : Yes / No
Internet : Yes / No
Index : Yes / No

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G.ILANGO VAN, J.

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To

- 1.The Principal District Munsif Court, Dindigu.
- 2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.

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