



C.R.P(MD)No.754 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 30.01.2025

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(MD)No.754 of 2024

and

C.M.P(MD)No.4048 of 2024

G.Subramanian ... Petitioner / Respondent / Defendant

Vs

Pathirakali ... Respondent / Petitioner / Plaintiff

PRAYER : This Civil Revision petition is filed under Section 115 of Civil Procedure Code to set aside the order dated 06.01.2024 in I.A.No.1 of 2023 in O.S.No.253 of 2003 on the file of the District Munsif Court, Rajapalayam by allowing this Civil Revision Petition.

For Petitioner : Mr.Y.Prakash

For Respondent : Mr.P.Santhoshkumar

ORDER

This Civil Revision petition is filed to set aside the order dated 06.01.2024 in I.A.No.1 of 2023 in O.S.No.253 of 2003 on the file of the District Munsif Court, Rajapalayam.



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2. The suit in O.S.No.251 of 2003 was filed by the respondent herein seeking the relief of recovery of possession, mesne profit, etc. The suit was decreed as prayed for with costs. After that I.A.No.1 of 2023 was taken out by the decree holder under Section 152 of C.P.C., to amend the plaint and decree in respect of the description of the property on the following ground ;

Against the judgment and decree passed by the trial Court S.A.No. 412 of 2010 was filed before this Court. It was dismissed by confirming the judgment and decree passed by the trial Court and the appellate Court. Later E.P.No.9 of 2015 was filed before the learned Principal District Judge, Srivilliputhur, for execution of the decree. Later it was transferred to District Munsif Court, Rajapalayam, re-numbered as E.P.No.13 of 2019. At the time of effecting delivery it came to the notice that survey number is wrongly mentioned in the plaint and decree. In the sale deed, the town survey number is mentioned as 110/11, Block No.22.

3. That was resisted by the revision petitioner herein stating that the plaint and decree cannot be amended for some other property. After



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the decree and judgment, the trial Court has no power to amend the plaint and decree. Apart from that there is no jurisdiction also. By changing the description of the property, the first respondent tries to introduce new property.

4. After hearing both sides, the trial Court allowed the petition against which this revision is preferred.

5. Heard both sides.

6. The only point that arises for consideration is whether there was any issue regarding identification of the property in the main suit between the parties. As mentioned above, the first respondent has stated that in the sale deed, the correct town survey number is mentioned as 110/11, Block No.22. But in the plaint it has been wrongly typed as 110/B and Block No.28. The trial Court for resolving the issue, has taken into account the observation or finding recorded by the appellate Court namely the subordinate Court, in A.S.No.16 of 2008. The appellate Court has made a finding and observation on the basis of the evidence recorded in the trial Court with reference to the survey number



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and the property. That sale deed was executed by the revision petitioner to one Arumuga Perumal. Later Arumuga Perumal sold the property to the first respondent. On that account, the trial Court has recorded such finding that it is nothing but a correctable mistake committed at the time of drafting the plaint. There is no identification issue with regard to the property under dispute. The contention now raised by the revision petitioner is completely out of place and cannot be accepted.

7. The revision petitioner would rely upon the following judgments:

i) the judgment of the Hon'ble Supreme Court in the case of ***Dwaraka Das Vs State of M.P. and another*** reported in (1999) 3 ***Supreme Court Cases 500*** ;

ii) the judgment of this Court in the case of ***Lingammal and 7 others Vs Periappappa @ Lingammal and another*** reported in 1998 (II) ***CTC 345*** ;

for the purpose of argument that after period of limitation, this petition was filed. According to the revision petitioner, the amendment petition itself is barred by limitation. Since the Second Appeal was dismissed on



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11.07.2013. But this argument is not accepted for the simple reason that E.P.No.9 of 2015 was filed within time before the Principal District Munsif Court, Srivilliputhur, transferred to District Munsif Court, Rajapalayam and renumbered as E.P.No.13/2019. E.P., is still stated to be pending. So the question of limitation does not arise. So this argument is completely out of place and cannot be accepted.

8. Similarly, the judgment reported in **(1999) 3 Supreme Court Cases 500**, does not help the revision petitioner. The factual circumstances in the case is entirely different. As mentioned above, there is no identification of the property issue between the parties. So unless there is an issue with regard to the identification of property, this objection is also not available to the revision petitioner.

9. Moreover, the first respondent produced a copy of the sale deed dated 05.12.2001, wherein in the description of property we find the survey number as 110/11, Block No.22. So I find absolutely no illegality or perversity in the order dated 06.01.2024 passed in I.A.No.1 of 2023 in O.S.No.253 of 2003 by the learned District Munsif, Rajapalayam.



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WEB COPY 10. Accordingly, this Civil Revision Petition fails and dismissed.

Consequently, connected miscellaneous petition stands closed. No costs.

30-01-2025

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

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To

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



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G.ILANGO VAN, J.

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