



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.06.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(PD).(MD)No.1268 of 2021

and

C.M.P.(MD)No.7291 of 2021

M.Subramanian

..Petitioner

Vs.

1.A.Panayadiyan

2.Muruganandham

3.Vijayalakshmi

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the fair and decreetal order dated 18.03.2020 made in I.A.No.1 of 2020 in O.S.No.227 of 2018 passed in I.A.No.1 of 2020 in O.S.No. 227 of 2018 on the file of the learned Sub Judge, Lalgudi and allow the present Civil Revision Petition.

For Petitioner

: Mr.J.Maria Roseline



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For R-1 : unserved

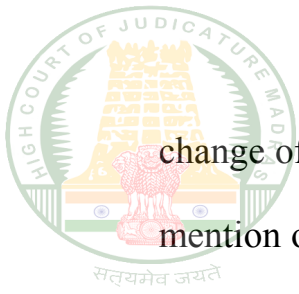
For R-2 &R-3 : Mr.B.Vinoth Kumar

ORDER

This petition has been filed to set aside the fair and decreetal order dated 18.03.2020 mad in I.A.No.1 of 2020 in O.S.No.227 of 2018 on the file of the learned Sub Judge, Lalgudi.

2. The petitioner is the plaintiff in O.S.No.227 of 2018 before the learned Sub Judge, Lalgudi, for permanent injunction seeking to restrain the respondents from interfering with the peaceful possession and enjoyment of the property. Pending suit, the petitioner filed an interlocutory application in I.A.No.1 of 2020 under Order VI Rule 17 of the Code of Civil Procedure (CPC) seeking to amend the plaint. The said application was dismissed by the learned Sub Judge on 18.03.2020. Aggrieved by the said order, the petitioner has filed the present Civil Revision Petition.

3. The learned counsel appearing for the petitioner submitted that after the commencement of the trial, when the matter was posted for the chief examination of D.W.1, it was discovered that the earlier counsel had mistakenly mentioned the survey number as Survey No.153/12 instead of 159/17. Upon



change of vakalat, the present counsel noticed this error, along with an incorrect mention of the extent of the property as 773 square metres instead of 351 square metres. Therefore, the petitioner filed I.A.No.1 of 2020 under Order VI Rule 17 CPC seeking amendment of the plaint. However, the said application was dismissed by the trial Court on the ground that the amendment after the commencement of trial is impermissible. Challenging that order, the present Civil Revision Petition has been filed.

4. The learned counsel further submitted that Order VI Rule 17 CPC permits the Court to allow amendments at any stage of the proceedings if such amendment is necessary for determining the real question in controversy between the parties. In the present case, the petitioner did not seek to introduce new facts but only intended to correct the typographical errors in the survey number and extent. The written statement filed by the respondent correctly mentions the survey number as 159/17, and hence no prejudice would be caused to the respondents if the amendment is allowed. Moreover, no additional evidence is required, except for re-examining P.W.1 to incorporate the corrected details.

5. Per contra, the learned counsel for the respondents would submit that the suit was filed in 2016 and the written statement was filed in 2017, clearly mentioning the correct survey number. However, the petitioner failed to take



any steps to amend the plaint for nearly three years. As per the proviso to Order VI Rule 17 CPC, no amendment shall be allowed after the commencement of the trial unless the Court concludes that the party could not have raised the matter before the commencement of trial despite due diligence. Therefore, the trial Court rightly dismissed the application.

6. Admittedly, the suit was instituted in 2016 and the written statement was filed in 2017. The amendment application was filed only in 2020, after the commencement of trial, citing an error committed by the earlier counsel. However, upon considering the facts and the nature of the amendment, this Court is of the view that no prejudice would be caused to the respondents and that the amendment is necessary to resolve the real controversy.

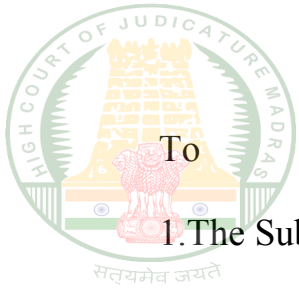
7. Accordingly, the order passed in I.A.No.1 of 2020 in O.S.No.227 of 2018 by the learned Sub Judge, Lalgudi is hereby set aside and the Civil Revision Petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed. However, liberty is granted to the respondents to file additional written statement if it is necessary.

18.06.2025

Internet:Yes/No

Index:Yes/No

TSG



To

1.The Sub Judge, Lalgudi.

2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI, J.

TSG

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