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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-10-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

Civil Revision Petition No.1381 of 2024
and
C.M.P.No.7393 of 2024

CNR: {HCMA010493972024}

1. Selvam
   S/o.R.Venkatachalam

2. Karthikamani
   W/o.Selvam

..Petitioners

Vs

1. Rajathi
   W/o.Nagarajan

2. Selvaganapathi
   S/o.Nagarajan

3. Arukkani
   W/o.late Chinnapaiyan

4. C.Senguttuvan
   S/o.late Chinnapaiyan

5. Bakthavachalam
   S/o.Perumal

..Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 22.08.2023 passed in I.A.No.3 of 2022 in O.S.No.31 of 2010 by the II Additional District Munsif Court, Salem.

For Petitioners : Mr.V.Sekar
For Respondents : Mr.K.Sivasubramanian [R1 & R2]
No appearance [R3 to R5]

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This civil revision petition has been filed under Article 227 of the Constitution of India against the order dated 22.08.2023 passed in I.A.No.3 of 2022 in O.S.No.31 of 2010 by the II Additional District Munsif Court, Salem, wherein the application filed by the respondents 1 and 2/plaintiffs under Order VI Rule 17 CPC for amendment of plaint, came to be allowed by the Court below.

2. Heard learned counsel on either side and carefully perused the materials available on record. This Court also went through the impugned order.

3. The respondents 1 and 2 are the plaintiffs, who filed the suit in O.S.No.31 of 2010 seeking for the relief of declaration, recovery of damages and mandatory injunction. They filed I.A.No.3 of 2022 in O.S.No.31 of 2010 under Order VI Rule 17 CPC seeking amendment of plaint to carry out the following amendments:

> "I. In para VII of the Plaint remove the lines 2 to 6 and substitute the following
> "One terraced house (210 sqft) one cooking room and another room measuring 10 feet x 10 feet and one toilet measuring 10 feet x 8 feet. The building measures 20 feet East-West 20 feet South to North and 14 feet height have to be demolished" and continue lines to 10.
>
> II. In the valuation column for the relief of Mandatory injunction removed the third line and substitute in it as "One terraced house (200 Sq.ft.) one cooking room and another room measuring 10 feet

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x 10 feet and one toilet measuring 10 feet x 8 feet. The Building measures 20 feet East-West. 20 feet North South and 14 feet height which has to be demolished on the way to the wall is valued as

III. In the prayer column (d) strike out the lines 2 to 4 and substitute in that place as "demolish the terraced house (200 Sq.ft.) one cooking room and another room measuring 10' x 10' and one toilet measuring 10' x 8'. The building measures 20 East West 20' South to North and 14' height and surrender vacant possession."

The Court below allowed the said application and aggrieved by the same, the present revision has been filed before this Court.

4. The main ground on which the amendment application came to be filed by respondents 1 and 2/plaintiffs is the report of the Advocate Commissioner and they wanted to make necessary amendment in terms of measurements, construction *etc*. based on the report.

5. The objection raised on the side of petitioners/defendants 3 and 5 is that the very report filed by the Advocate Commissioner has been objected by petitioners/defendants 3 and 5 as well as respondents 1 and 2/plaintiffs and it is yet to be acted upon by the Court below and therefore, the plaint cannot be amended merely based on the report submitted by the Advocate Commissioner.

6. The Court below has allowed the application on the ground that no serious prejudice will be caused if the amendment is allowed since the main

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relief is not granted and the amendment sought for depends upon the final decision that will be taken by the Court below.

7. In the considered view of this Court, there is already an objection to the report submitted by the Advocate Commissioner on the ground that the report has not been prepared in line with the previous order passed by this Court in C.R.P.(PD) No.2934 of 2018 dated 02.09.2020. The Court below is yet to apply its mind on the report submitted by the Advocate Commissioner. While so, the amendment application has been filed only based on the report that has been submitted by the Advocate Commissioner to correct the measurements and the constructions put up. Such an amendment application should not be normally entertained by the Court. The Court must first deal with the evidence let in by both sides and take the report of the Advocate Commissioner as another piece of evidence. Ultimately, the Court must come to a conclusion regarding the report of the Advocate Commissioner and if it is relied upon, it will attain legal sanctity. Till then, there is no question of relying upon the report and seeking for appropriate amendment in the plaint.

8. In the light of the above discussion, the order passed by the Court below has to be necessarily interfered and the order dated 22.08.2023 passed in I.A.No.3 of 2022 in O.S.No.31 of 2010 by the II Additional District Munsif Court, Salem, is hereby set aside. The Court below shall proceed further with

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the recording of evidence and if the Court below, after appreciation of evidence and after taking into account the objections raised against the report of the Advocate Commissioner, ultimately comes to the conclusion that the report can be acted upon while granting the final relief, the Court below can grant the relief in line with the measurements and the structures as pointed out by the Advocate Commissioner in the report. This observation will sufficiently take care of the interest of both the parties.

In the result, this civil revision petition is allowed in the above terms. There shall be a direction to the learned Principal District Munsif, Salem, to dispose of the suit in O.S.No.31 of 2010 within a period of four (4) months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

28-10-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
gm

To
1.The Principal District Munsif,
Salem.

2.The II Additional District Munsif,
Salem.

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N.ANAND VENKATESH, J.

gm

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