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C.R.P.NO.4348 OF 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDER RESERVED ON : 16 / 12 / 2025

ORDER PRONOUNCED ON: 28 / 01 / 2026

CORAM :

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.R.P. NO.4348 OF 2022

AND

C.M.P. NO.22901 OF 2022

ArihantGothi
No.144, Kalathipillai Street,
Sowcarpet,
Chennai – 600 079.

... Petitioner/Petitioner/
2nd Defendant

Vs.

S.Devan,
No.80, Kumarasiralapakkam Village,
Devathanam Post, Ponneri Taluk,
Thiruvallur District.

... Respondent/Respondent/
Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, 1950, praying to set aside the Fair and Decretal Order dated October 11, 2022 passed in I.A.No.2 of 2022 in O.S.No.160 of 2017 on the file of Additional Subordinate Court, Ponneri.



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For Petitioner : Mr.S.Jaya Suriya
for Mr.N.R.Anantha Rama Krishnan

For Respondent : Mr.R.Krishnasamy

ORDER

This Civil Revision Petition is filed under Article 227 of the Constitution of India, 1950, praying to set aside the Dismissal Order passed in a petition filed by the Petitioner under Order VI Rule 17 of 'the Code of Civil Procedure, 1908' ('CPC' for short) in I.A.No.2 of 2022 in O.S.No.160 of 2017 on the file of 'the Additional Subordinate Court, Ponneri' [hereinafter referred to as the 'Trial Court'].

2. The Revision Petitioner herein is the 2nd Defendant in the Original Suit in O.S.No.160 of 2017. The Respondent herein is the Plaintiff therein. For the sake of convenience, the parties will hereinafter be referred to as per their array in the Original Suit.

3. The Plaintiff has filed the Original Suit seeking declaration that the Registered Sale Agreement dated August 03, 2007 in favour of the 2nd Defendant is null and void; declaration that the Registered Power of Attorney Deed dated August 03, 2007 in favour of 3rd Defendant is null and void; declaration that the Sale Deed dated June 23, 2014 executed by



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the 3rd Defendant as Power Agent of the Plaintiff in favour of the 2nd Defendant is null and void; and also permanent injunction against the Defendants.

4. The case of the Plaintiff is that he borrowed a sum of Rs.1,00,000/- (Rupees One Lakh only) from the 1st Defendant for which the Plaintiff was asked to execute loan documents in favour of the 1st Defendant only as a security, for which he executed the aforesaid Sale Agreement dated August 03, 2007 and Power of Attorney dated August 03, 2007. Contrary to the intention of the parties, pursuant to the Power of Attorney Deed, a Sale Deed dated June 23, 2014 was created. Hence, he filed the Suit seeking reliefs as mentioned above.

5. The 2nd Defendant filed a Written Statement and the same was adopted by the 1st Defendant. In the Written Statement, the 2nd Defendant stated that the Plaintiff, one T.Parthasarathi and one P.Suresh offered an extent of 0.06.5 hectares for sale in Survey No.24/2 of Kumarasirulapakkam Village. After some negotiation, the registered Sale Agreement dated August 03, 2007 was entered into between the Plaintiff, T.Parthasarathi and P.Suresh as vendors and on the other hand, the 2nd Defendant as purchaser. Further, the Plaintiffs and the two others

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executed a registered Power of Attorney Deed in favour of the 3rd Defendant. Subsequently, on August 23, 2007, the 2nd Defendant paid the Plaintiff and two others, the balance sale consideration of Rs.2,00,000/- (Rupees Two Lakhs only) and they were also issued receipts for the same. Subsequent to the Power of Attorney Deed, the Power Agent / 3rd Defendant executed a Sale Deed dated June 23, 2014 in favour of the 2nd Defendant in respect of the Suit Properties. The 2nd Defendant has mutated revenue records also. Stating so, they prayed to dismiss the Suit.

6. The trial commenced in the Suit and the Plaintiff's side evidence closed and cross examination of D.W-1 was completed. When the case was posted for Defendant's side further evidence, the 2nd Defendant filed a petition under Order VI Rule 17 of CPC praying to amend the date in Paragraph No.13 of his written statement.

7. The Trial Court after hearing both sides' concluded that the amendment that was sought is a post-trial amendment and the same cannot be allowed; allowing the amendment petition will delay the proceedings and accordingly dismissed the Interlocutory Application.



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8. Feeling aggrieved by the Dismissal Order, Petitioner therein / 2nd

Defendant has preferred this Civil Revision Petition.

9. Mr.S.Jaya Suriya, learned Counsel representing Mr.N.R.Anantha Rama Krishnan, learned Counsel on record for the revision petitioner / petitioner / 2nd defendant submitted that the amendment sought for by the 2nd Defendant was to correct an inconsequential typographical error. The amendment was to correct the date of a document in the written statement as August 23, 2007, which is erroneously mentioned as August 20, 2007. Moreover, the said document has been marked as Ex-B.3 before the Trial Court in the Original Suit and in fact, the 2nd Defendant has mentioned the correct date of the document (August 23, 2007) in the notices as well as in the proof affidavit; only in the written statement a typographical error crept in and it has been wrongly mentioned as August 20, 2007. The proposed amendment does not alter the cause of action or the nature / scope of the Suit in any manner. The Trial Court failed to understand the nature of the amendment and mechanically dismissed the Amendment Petition. The Dismissal Order is liable to be set aside. Accordingly, he prayed to allow the Civil Revision Petition, set aside the Dismissal Order and allow the Amendment Petition.



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10. Mr.R.Krishnasamy, learned Counsel for the respondent / respondent / plaintiff submitted that the amendment sought for by the 2nd Defendant is a post-trial amendment which cannot be permitted. The Amendment Petition was filed when the plaintiff side evidence was closed, D.W.1's cross examination was over and the matter was posted for further evidence on the side of the Defendants. The Amendment Petition has been filed with an ulterior motive to prolong the litigation by causing delay in the proceedings. Accordingly, he prayed to dismiss the Civil Revision Petition and sustain the Order of the Trial Court.

11. This Court has heard on either side and perused the Complaint, Written Statement as well as the Petition in I.A.No.2 of 2022 and the Affidavit filed in support thereof.

12. The amendment sought for by the 2nd Defendant is to amend the date in Paragraph No.13 of the Written Statement, which is a mere typographical error. In the Written Statement, it has been pleaded that on August 20, 2007, the Defendant had paid the Plaintiff a sum of Rs.2,00,000/-. The receipt for the same has been marked as Ex-B.3. Ex-B.3 - Receipt is dated August 23, 2007. Now, the Defendants want to amend the said date to August 23, 2007, in tune with Ex-B.3 - Receipt.



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The amendment is an inconsequential one. Anyways, the plaintiff is at liberty to file a rejoinder after the amendment is made, if he so desires, or advised, as per law.

13. This Court is of the view that although the amendment sought is a post-trial amendment, it would not alter the character or nature of the suit, nor it would cause any significant delay. Consequently, the Trial Court ought to have allowed the amendment petition, but failed to do so. Therefore, this Court is inclined to allow this Civil Revision Petition, set aside the Order passed by the Trial Court, and consequently allow I.A. No. 2 of 2022.

14. Resultantly, this Civil Revision Petition is allowed. The Dismissal Order passed by the Trial Court in I.A.No.2 of 2022 is set aside and I.A.No.2 of 2022 is allowed. Considering the facts and circumstances of the case, there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes / No
Speaking Order : Yes / No
Neutral Citation : Yes / No
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R. SAKTHIVEL, J.

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To

The Additional Subordinate Court
Ponneri.

PRE-DELIVERY ORDER MADE IN

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