

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

CRP.PD.No.3591 of 2015 and
M.P.No.1 of 2015

1. L.Sivakami
2. A.R.Palaniappan

.. PETITIONERS

Vs

Sujatha

.. RESPONDENT

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 16.07.2015 passed in I.A.No.513 of 2012 in O.S.No.315 of 2006 by the District Munsif, Palladam.

For petitioners : Mr.R.Sankarappan

For Respondent : ...

ORDER

The Revision Petitioners are the defendants in O.S.No.315 of 2006 on the file of the learned District Munsif, Palladam. The respondent herein is the plaintiff therein.

2. The respondent herein filed the suit for declaration and for permanent injunction.

3. While so, the respondent herein filed I.A.No.513 of 2012 under Order VI Rule 17 of CPC in O.S.No.315 of 2006 to amend the prayer in the plaint seeking for recovery of possession also.

4. The trial court allowed I.A.No.513 of 2012 in O.S.No.315 of 2006 by an order dated 16.07.2015.

5. The Revision Petition is against the aforesaid order.

6. I have heard the learned Counsel for the Revision Petitioners.

7. The learned Counsel for the Revision Petitioners has submitted that based on the report of the Advocate Commissioner, the trial court allowed I.A.No.513 of 2012 for amending the prayer in the plaint. He has submitted that the Revision Petition against the report of the Advocate Commissioner in C.R.P.(PD)No.2019 of 2012, is pending on the file of this Court. Hence, the present Civil Revision Petition has to be entertained and the same could be posted along with the same.

8. I have considered the submission of the learned Counsel for the Revision Petitioners.

9. The order of the trial court does not reveal that the same is based on the report of the Advocate Commissioner.

10. The respondent herein, the plaintiff in the suit, stated that when Advocate Commissioner measured with the Surveyor the suit property, the plaintiff came to know that there was encroachment. Since there was encroachment by the defendants, who are the Revision Petitioners, an application was filed to amend the prayer in the plaint for recovery of possession also.

11. It is admitted that the trial is yet to commence and the amendment of prayer for recovery of possession would not cause any prejudice to the revision petitioners, but, on the other hand, if the amendment is not allowed, the same would cause grave prejudice to the plaintiff. Hence, I do not find any infirmity in the order of the trial court.

D.HARIPARANTHAMAN, J.

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12. In the result, the Civil Revision Petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

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Index : Yes
Internet:yes

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To
1. The District Munsif, Palladam.

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