

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2015

CORAM

THE HONOURABLE MR. JUSTICE **D.HARIPARANTHAMAN**

C.R.P.(PD)No.104 of 2015 &
M.P.No.1 of 2015

1.Kunjidapatham
2.Kumar

... Petitioners

vs.

1.Sangeetha
2.Ramesh

...Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and final order of the Additional Sub Court, Mayiladuthurai in I.A.No.34/2014 in O.S.No.48 of 2013 dated 20.11.2014.

For Petitioners : Mr.S.Sounthar

For Respondents : Mr.M.Govindasamy

ORDER

The petitioners are the plaintiffs in O.S.No.48 of 2013 on the file of Additional Sub Court, Mayiladuthurai. It is a partition suit.

2. The petitioners filed I.A.No.34 of 2014 to amend the schedule of the property by including a property in S.No.424/4 measuring 0.70 cents, which is equivalent to 0.28.5 ares.

3. The learned Additional Subordinate Judge rejected the application filed by the petitioners in I.A.No.34 of 2014 on 20.11.2014.

4. This Civil Revision Petition is against the aforesaid order, dated 20.11.2014 passed in I.A.No.34 of 2014 in O.S.No.48 of 2013.

5. The learned counsel for the petitioners has submitted that trial has not yet commenced and hence, no prejudice would be caused. According to the learned counsel, amendment could be made at any stage under Order 6 Rule 17 of CPC. In the case on hand, since trial has not commenced, the learned Judge is not correct in rejecting the amendment application.

6. However, the learned counsel for the respondents stoutly oppose the submissions made by the learned counsel for the petitioners.

7. I have considered the submissions made by the learned counsel on either side.

8. I am in agreement with the submissions made by the learned counsel for the petitioners. It is not in dispute that trial has not commenced. Hence, no prejudice would be caused by amending the plaint by including one more item of the property in the schedule to the properties. Hence, the order passed by the trial Court is liable to be interfered with.

9. It is represented by the learned counsel on either side that a direction could be issued to the Trial Court to dispose of the suit within a stipulated period.

10. In view of the above, the order dated 20.11.2014 made in I.A.No.34 of 2014 is set aside and a direction is issued to the Additional Sub Court, Mayiladuthurai to dispose of the suit in O.S.No.48 of 2013 at the earliest and pass a preliminary decree, on merits and in accordance with law, within a period of six months from the date of receipt of a copy of this order.

The Civil Revision Petition stand allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

05.08.2015

Index : Yes/No

Internet : Yes

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To

The Additional Sub Court, Mayiladuthurai.

D.HARIPARANTHAMAN,J.,

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