

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)No.1651 of 2015 &
M.P.No.1 of 2015

S.Babyammal

... Petitioner

v.

1.M.Mani @ Kapali

2.M.Muthu @ Muthukannan

3.M.Shanmugham

4.M.Mohan

5.The Sub Registrar,
Kodambakkam

6.Malika

7.Murali

8.Sasi @ Sasikala

9.V.Ramasamy

10.V.Janaki

11.Minor S.Hemalatha
Rep. By Mrs.L.Jamunarani

12.The Joint Sub-Registrar I,
Office of the Sub Registrar,
Saidapet, Chennai – 15.

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 26.02.2015 made in I.A.No.11 of 2015 in O.S.No. 556 of 2003 on the file of Additional District Munsif Court, Poonamallee.

For Petitioner : Mr.R.Khapali

ORDER

Challenging the fair and final order passed in I.A.No.11 of 2015 in O.S.No. 556 of 2003 on the file of Additional District Munsif Court, Poonamallee, the plaintiff has filed the above Civil Revision Petition.

2. In the year 2003, the plaintiff filed the suit in O.S.No. 556 of 2003 for partition and for other reliefs. In the year 2014, the plaintiff filed an application under Order 6, Rule 17 of CPC to amend the pleadings. The proposed amendment sought for by the plaintiff runs to two pages.

3. On a reading of the original plaint and the proposed amendment it is clear that by the proposed amendment, the plaintiff seeks to challenge the entire character of the suit and also the cause of action for filing the suit.

Since the proposed amendment would change the character of the suit, the Trial Court has rightly dismissed the application.

4. Mr.R.Khapali, learned counsel appearing for the petitioner submitted that though there was some delay in filing the application under Order 6 Rule 17 of CPC to amend the pleadings, the defendants would not be prejudiced by the proposed amendment. Further, the learned counsel in support of his contention, relied upon a judgment reported in **AIR 1963 SC 1279 (Ladli Prashad Jaiswal v. The Karnal Distillery Co. Ltd., Karnal and others)**.

5. However, on a reading of the judgment, the facts and circumstances of the present case is completely different. The ratio laid down by the Apex court is not applicable to the present case.

6. The plaintiff has not explained the reasons for not filing the application immediately. For the reasons best known to the plaintiff, she waited for more than 11 years for filing an application seeking for amendment, which changes the nature of the suit.

7. In these circumstances, I do not find any error or irregularity in the order passed by the Execution Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision

petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

23.04.2015

Index : No
Internet : Yes

Rj

To

The Additional District Munsif Court,
Poonamallee,

M. DURAISWAMY,J.,

Rj

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