

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.07.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)No.2979 of 2015 &

M.P.No.1 of 2015

C.Kumarasamy (died)

1.K.Gopalakrishnan

2.K.Maragatham

... Petitioners

v.

1.C.Subramani

2.S.Senthilkumar

S.Karnambal (died)

3.P.Saraswathi

4.P.Kathirvel

5.J.Thangamani

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 08.04.2015 made in I.A.No.54 of 2015 in O.S.No.637 of 2010 on the file of II Additional District Munsif Court, Erode.

For Petitioner : Mr.C.E.Pratap_

O R D E R

Challenging the fair and final order passed in I.A.No.54 of 2015 in O.S.No.637 of 2010 on the file of II Additional District Munsif Court, Erode, the plaintiffs have filed the above Civil Revision Petition.

2. The plaintiffs filed the suit in O.S.No.637 of 2010 for permanent injunction. The defendants filed their written statement in the year 2011 and are contesting the suit. When the suit was taken up for trial, the plaintiffs filed an application in I.A.No.54 of 2015 under Order VI, Rule 17 of CPC to amend the plaint by incorporating the prayer for declaration stating that the defendants have disputed the title in the written statement. The application filed by the plaintiffs was contested by the defendants stating that the application has been filed at a belated stage.

3. The Trial Court, after taking into consideration the case of both the parties, dismissed the application finding that the proposed declaratory relief sought for by the plaintiffs is barred by limitation under Article 58 of the Limitation Act. That apart, when the plaintiffs have filed the application after the commencement of the trial, that too, after four years from the date of filing of the written statement, the reason for not filing the application

earlier, seeking for amendment of the plaint, was not explained by the plaintiffs. Since the application was filed at a belated stage, the Trial Court has rightly dismissed the application.

4. In these circumstances, I do not find any error or irregularity in the order passed by the Trial Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : No
Internet : Yes

24.07.2015

Rj

To

The II Additional District Munsif Court,
Erode

M. DURAISWAMY,J.,

Rj

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