

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

CRP.No.4041 of 2015
and
M.P.No.1 of 2015

1.K.Soundaravalli

2.R.Eswaramurthy PETITIONERS/Defendants 2 & 5

.Vs.

1.R.Dhandapani
2.R.Sivaramakrishnan
3.V.Muthulakshmi
4.A.Visalakshi
5.Periasamy Gounder
6.E.Venkatachalam
7.E.Kalyanasundaram
8.R.Ramajayam
9.K.M.Murugesan

... RESPONDENTS/Plaintiffs
Defendants 1,3,4,6 to 10

Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 12.09.2015 passed in I.A.No.1346 of 2015 in O.S.No.392 of 2006 on the file of the First Additional District Judge, Tiruppur.

For petitioner : Mr.R.Bharath kumar

O R D E R

The Revision Petition is filed to set aside the fair and decreetal order dated 12.09.2015 passed in I.A.No.1346 of 2015 in O.S.No.392 of 2006 on the file of the First Additional District Judge, Tiruppur.

2. Heard the learned Counsel for the Revision Petitioners.

3. The revision petitioners are the defendants 2 and 5 in O.S.No.392 of 2006 on the file of the I Additional District Judge, Tiruppur. It is a partition suit filed by the first respondent. All the parties are siblings to each other.

4. While so, the first respondent/plaintiff filed I.A.No.1346 of 2015 under Order 6 Rule 17 CPC to amend the plaint and the same was allowed by the I Additional District and Sessions Judge, on 12.09.2015. Hence, this revision petition.

5. The learned counsel for the revision petitioners has vehemently contended that the trial Court committed grave error in allowing the application, since the first respondent/plaintiff did not show due diligence in filing the application at the earliest point of time, particularly when the same was pointed out in the written statement and the first respondent/plaintiff had filed an application only at the time when DW1 was on the box.

6. The trial court considered the issue in detail and in the interest of justice, the trial court thought fit to allow the application seeking amendment of the plaint on the payment of cost of Rs.3,000/-.

7. I am not in agreement with the learned counsel for the revision petitioner, since the trial court in the facts and circumstances of the case could allow the application for amendment of plaint, even after the trial has commenced. There is no blanket prohibition for the trial Court in this regard. Hence, I am not inclined to interfere with the order passed by the trial Court, however, I make it clear that the revision petitioner shall be given time to file additional written statement, if necessary. Further more, the Trial Court is directed to pass preliminary decree on merits, if it comes to the conclusion that the plaintiff has right over the properties

and if it comes to the conclusion that the plaintiff has no right over the properties, the suit would also be rejected, within a period of six months.

8. With the above observation, this Civil Revision Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mra

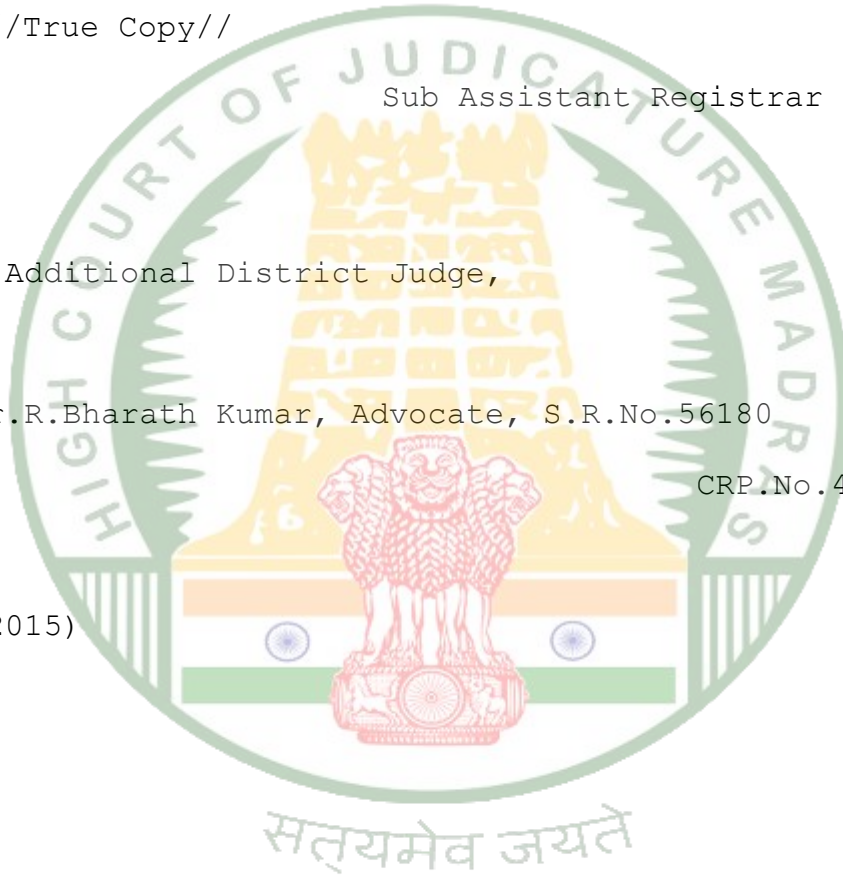
To

The First Additional District Judge,
Tiruppur

+1cc to Mr.R.Bharath Kumar, Advocate, S.R.No.56180

CRP.No.4041 of 2015

SR(CO)
CA(27/10/2015)



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