

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2015

CORAM

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

C.R.P.(PD)No.4269 of 2015 and
M.P.No.1 of 2015

R.Karupanan (Died)

1.K.Pongiammal

2.V.Kuppusamy

3.K.Nagarathinam

... Petitioners

vs.

1.V.Manoharan

2.D.Krishnamoorthy

3.C.K.Duraisamy

4.K.Saminathan

5.K.Loganathan

6.K.Bakkiyaraj

7.K.Mythili

8.Marayammal

9.Palaniammal

10.Masiammal

...Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and final order dated 16.09.2015 passed in I.A.No.478 of 2015 in O.S.No.162 of 2011 on the file of the Principal District Munsif Court, Erode District.

For Petitioner : Mr.I.C.Vasudevan

For Respondents : Mr.V.S.Kesavan

ORDER

The revision petitioners are the plaintiffs in O.S.No.162 of 2011 on the file of the Principal District Munsif Court, Erode and the respondents herein are the defendants therein.

2. The respondent herein filed a suit in O.S.No.205 of 2011 before the same Court.

3. It is stated that there is a joint trial in O.S.No.162 of 2011 and O.S.No.205 of 2011. The third respondent herein got examined in O.S.No.205 of 2011 and the revision petitioners, who are defendants in O.S.No.205 of 2011 have to let in evidence.

4. At this stage, the revision petitioners filed I.A.No.478 of 2015 in O.S.No.162 of 2011 for amendment of the plaint. The Trial Court, by an order dated 16.09.2015 rejected the said application. Challenging the said order, the petitioners have come up with this revision petition.

5. Heard both sides.

6. It is seen that though there is joint trial, neither proof affidavit was filed by the revision petitioners as plaintiffs in O.S.No.162 of 2011 nor proof affidavit was filed as defendants in O.S.No.205 of 2011.

7. Taking into account the aforesaid facts and also the nature of amendment, I am of the view that the Trial Court has committed error in refusing to amend the plaint, as the same would cause serious prejudice to the revision petitioners. The Trial is only at the initial stage and no serious prejudice would be caused to the respondents herein, if amendment is allowed.

8. In view of the above, the order dated 16.09.2015 made in I.A.No.478 of 2015 is set aside. However, it is made clear that the defendants in O.S.No.162 of 2011 shall be given three weeks time' from the date of receipt of a copy of this order to file additional written statement, if any, against the amendment made in the plaint.

9. In the facts and circumstances of the case, the Trial Court is directed to dispose of the suits in O.S.Nos.162 and 205 of 2011 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 stands allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

29.10.2015

Index : Yes/No
Internet : Yes

Note : Issue the order copy on 02.11.2015

svki

To

The Principal District Munsif, Erode

D.HARIPARANTHAMAN,J.,
svki

C.R.P.(PD)No.4269 of 2015

29.10.2015