

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2016

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

CRP PD 4380 of 2014
and
M.P.No.1 of 2014

Nataraj

... Petitioner

Vs

- 1.Vaishali Vishalakshi Dayalan
- 2.D.Dayalan
- 3.Krishna Priya
- 4.The Branch Manager,
Punjab National Bank Ltd.,
New Scheme Road,
Pollachi.
- 5.M/s.Asst.Re-construction Company,
(India Ltd.),
17th Floor, Express Towers,
Nariman Point, Bombay.
- 6.M/s.ITCOT Consultancy & Service Ltd.,
17th Floor, Express Towers,
Nariman Point, Bombay.
- 7.M/s.Magaganapathy Consultant & Service,
19/15, Kumarappa Street,
Nungambakkam, Chennai.

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 17.02.2014 in I.A.No.602 of 2013 in O.S.No.133 of 2009 on the file of the learned Sub Judge, Pollachi.

For Petitioner	::	Mr.V.Nicholas
For Respondents	::	Mr.B.Ramamoorthy for R1
		Mr.V.Kadhirvelu for R2
		Mr.T.M.Karthikeyan for R3
		Mr.P.B.Sampathkumar for R4
		Ms.S.Akila
		for M/s.Sarvabhauman Associates for R7
		R5 and R6 not ready in notice

O R D E R

The plaintiff who has filed a suit for partition originally claimed 1/3 share in the same. Subsequently, by way of amendment application, the plaintiff has claimed 2/3 share in the property. The reason for amendment is that the first defendant who is the father of the plaintiff had sold certain suit properties to the third parties. They sold more than extent what the first defendant is entitled to. So, the plaintiff submits that item No.3 belongs only to the plaintiff and the first defendant is not having any share in the same. The said application was allowed by the learned trial judge. That is now challenged by the third defendant. The third defendant claims to have entered into an agreement with the first defendant, who is the father and therefore, he has got right to oppose the amendment. The revision petitioner/third defendant does not have any locus to challenge the application as he has got no right over the suit property. He only claims to have an agreement with the the first defendant for purchase of certain properties. Whether the amendment is barred by limitation or not can be decided in the suit. The suit is only for

a partition and that only the share is now sought to be amended which will not alter the frame of the suit or change the cause of action. Hence, the amendment was allowed. The third defendant cannot dispute the right of the plaintiff as he has no right or title over the suit property as on date. Therefore, there is no infirmity in the order passed by the learned trial Judge. Accordingly, the civil revision petition is dismissed. No costs. The connected miscellaneous petition is also dismissed.

22.12.2016

vri

To
The Sub Judge,
Pollachi.

PUSHPA SATHYANARAYANA,J.

vri

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