

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2016

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

C.R.P.(PD)No. 1142 of 2015

And

M.P.No. 1 of 2015

1. D.Kannaiah Naidu
 2. K.Balakrishnan ... Petitioner/Plaintiff
- Versus
1. Thulasi
 2. Kumar @ K.Girish Kumar
 3. Pakkiri
 4. D.Srinivasan ... Respondents/Defendants

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 04.12.2014 made in I.A.No. 1063 of 2014 in O.S.No. 1051 of 2005 on the file of Additional District Munsif, Poonamallee.

For Petitioners : Mr. V.Ayyapparaja

For Respondents : Mr.P.Rathnavel

O R D E R

The petitioners filed an application for amendment of the plaint for the

purpose of incorporating the measurements of a temple which is be situated in the suit property. The application was dismissed by the learned trial Judge on the ground it was filed after 9 years. Feeling aggrieved, the petitioners are before this Court.

2. Heard the learned counsel for the petitioners and the learned counsel appearing on behalf of the respondents.

3. The suit in O.S.No. 1051 of 2005 was instituted by the petitioners praying for a decree of injunction. The petitioners in the plaint indicated the measurements of the building housing the temple. However proper measurements were not mentioned and the same resulted in filing the application.

4. The learned trial Judge was of the view that the amendment application is not maintainable after a period of 9 years. By permitting the petitioners to amend, there will not be any change even in the cause of action or the case earlier pleaded by the petitioners. It was only the schedule of the property which was sought to be amended and that too with respect to the measurements. I am therefore of the view that the learned trial Judge was not correct in dismissing the application.

5. In the result, the order in I.A.No. 1063 of 2014, dated 04.12.2014 is set aside. The Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

6. It is open to the respondents to file additional written statement if they are so advised.

7. The suit is of the year 2005. The learned trial Court is directed to dispose of the suit as expeditiously as possible and in case within a period of six months from the date of receipt of a copy of this order.

28.09.2016

vsg

To

Additional District Munsif, Poonamallee.

K.K.SASIDHARAN, J.

vsg

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