

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **17.10.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.2339 of 2015 and
MP.Nos.1 and 2 of 2015

1.Thangammal
2.Subramaniam

...Petitioners

versus

Saraswathi

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and final order dated 15.04.2015 in I.A.No.173 of 2015 in O.S.No.164 of 2011 on the file of Sub-Court, Perundurai.

For Petitioners : Mr.S.Kaithamalai Kumaran

For Respondent : Mr.C.E.Pratap

ORDER

The petitioners, during the fag end of the trial, filed an interlocutory application in I.A.No.173 of 2015 to file additional written statement. The application was dismissed by the learned Trial Judge both on merits as well as on the ground of delay. The said order is under challenge in this Civil Revision Petition.

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

3. The respondent filed a suit before the Subordinate Court at Perundurai in O.S.No.164 of 2011 for partition of the suit property into three equal shares and separate allotment of one such share to her. The suit was contested by the petitioners by filing written statement. The Trial Court framed issues and thereafter, parties adduced evidence.

4. The petitioners after cross examining D1 to D3 filed an application to receive additional written statement. The petitioners by way of additional written statement wanted to take up a plea of non-joinder of necessary parties. The petitioners for the reasons best known to them failed to take up the plea of non-joinder at the earliest point of time. The learned Trial Judge very correctly held that the plea of non-joinder cannot be raised at the fag end of the trial. In fact, it was only at the stage of arguments, the petitioners have filed the application. In case, the application is allowed, the Trial Court has to implead the parties and thereafter, the process should commence once again including recording evidence on behalf of the parties. The learned Trial Judge was perfectly correct in dismissing the application filed by the

petitioners. I do not find any error or illegality in the said order warranting interference by exercising the revisional jurisdiction under Article 227 of the Constitution of India.

5. In the up shot, I dismiss the Civil Revision Petition. No costs. Consequently, connected miscellaneous petitions are closed.

17.10.2016

Index:Yes/No
svki
To

The Sub-Court, Perundurai

K.K.SASIDHARAN, J.

(svki)

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