

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

CRP (PD) No.1459 of 2016
& CMP.No.8046 of 2016

1.M.Ramesh
2.M.Sundarraaj
3.M.Sivaraj

.. Petitioners

Vs.

1.V.Sivaraj
2.V.Srinivasan
3.S.Kothandaraman

.. Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to allow the Civil Revision Petition and set aside the order in I.A.No.7904 of 2015 in O.S.No.303 of 2006 dated 4.1.2016 on the file of the I Asst. Judge, City Civil Court, Chennai.

For Petitioners : Mr.B.Thanikachalam

ORDER

The first respondent herein filed an application for amending the plaint in I.A.No.7904 of 2015, pursuant to the liberty granted by the First Appellate Court. The application was allowed by the learned Judge. Feeling aggrieved, the petitioners have now come up with the Civil Revision Petition.

2. The learned counsel for the petitioners contended that there is an issue with regard to limitation and as such the learned trial Judge was not correct in allowing the application for amendment. The learned counsel further contended that the respondents have already filed a written statement taking the plea of limitation and as such a direction should be given to the trial Judge to frame an issue and adjudicate the question of limitation.

3. There is no dispute that the first respondent herein filed an application for amendment pursuant to the liberty granted by the First Appellate Court. The order granting liberty to amend the plaint has become final.

4. The petitioners have come up with a grievance that the question of limitation has not been considered by the learned trial Judge while permitting amendment.

5. It is open to the trial Court to adjudicate the question of limitation while trying the suit. Even according to the petitioners, they have already filed a written statement taking up the issue with regard to limitation. Since limitation would go to the root of the matter, issues have to be framed by the learned trial Judge with regard to limitation and findings should be recorded.

6. In any case, it cannot be said that the trial Judge erred by allowing the application for amendment.

7. The Civil Revision Petition is dismissed with the above said observation. No costs. Consequently, connected miscellaneous petition is closed.

08.09.2016

Index : Yes/No

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K.K.SASIDHARAN,

J.

ds

08.09.2016

2016

2016

CRP (PD) No.1459 of
& CMP.No.8046 of