

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **30.09.2016**

CORAM:

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

C.R.P.(P.D.) No.1667 of 2016 and
CMP.No.8949 of 2016

1.Vadivel
2.Saravanan
3.Sivasakthi

...Petitioners

versus

Lakshmi

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 04.01.2016 made in I.A.No.836 of 2015 in O.S.No.106 of 2008 by the learned District Munsif, Mettur, Salem District.

For Petitioners : Mr.M.R.Jothimanian

For Respondent : Mr.M.Rajasekar

ORDER

The respondent originally filed a suit for injunction. The suit was contested by the petitioners by filing written statement. Subsequently and more particularly, after posting the matter for arguments, the respondent filed an application for amendment of the plaint. The amendment was allowed by the learned District Munsif. The said order is under challenge in this Civil Revision Petition.

2. The learned counsel for the petitioners contended that the suit, as on the date, on which amendment was allowed by the Trial Court, was barred by limitation and as such, the learned Trial Judge was not correct in permitting the amendment. According to the learned counsel, written statement was filed as early as on 04.11.2008 and as such, the respondent ought to have filed the application for amendment within three years from the date of filing written statement. The learned Trial Judge therefore erred in allowing the application for amendment.

3. I have also heard the learned counsel appearing on behalf of the respondent.

4. There is no dispute that written statement was filed on 04.11.2008. The respondent filed an application for amendment only on 24.08.2015. The application was necessitated on account of the contention taken by the petitioners herein that there is a document in their favour. It is true that the respondent has not taken efforts at an earlier point of time to amend the plaint. The learned Judge after considering the background facts exercised his discretion by allowing the application. I do not find any error or illegality in the order warranting interference.

5. The learned District Munsif, Mettur, is directed to frame an issue as to whether the suit is barred by limitation. The said issue shall be tried along with other issues. A factual finding should be given by the learned Judge in respect of the issue with regard to limitation.

6. The Civil Revision Petition is disposed of with the above direction. It is open to the petitioners to file additional written statement, in view of the amendment to the plaint. No costs. Consequently, connected miscellaneous petition is closed.

30.09.2016

Index:Yes/No

svki

To

The District Munsif, Mettur, Salem District.

K.K.SASIDHARAN, J.
(svki)

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