

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

CRP (PD) No.2118 of 2016
& CMP.No.11059 of 2016

Hemavathy

.. Petitioner

Versus

1.R.Rani
2.R.Babu
3.R.Dhandapani
4.R.Anand

.. Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order made in I.A.No.175 of 2015 in O.S.No.437 of 2014 dated 28.03.2016 on the file of the XVI Additional City Civil Court at Chennai.

For Petitioner : Mr.K.Premkumar
For Respondents :Mr.K.P.Chandrasekaran

ORDER

The Interlocutory application filed by the petitioner for amendment in I.A.No.175 of 2015 was dismissed by the trial Court. The order is under challenge in this Civil Revision Petition on multiple grounds.

2. Heard the learned counsel for the respective parties.

3.The petitioner filed a suit for partition in O.S.No.437 of 2014. The respondents filed a written statement, wherein, a contention was taken that they are the beneficiaries of the Settlement Deed dated 18.02.2005, which was registered as document No.154 of 2005.

4.The respondents made an attempt to mark the xerox copies of the documents by filing an application in I.A.No.94 of 2015.

5.The application filed by the respondents in I.A.No.94 of 2015 was dismissed by the trial Court. The order was challenged in CRP.(PD).No.3832 of 2015. This Court has directed the respondents to produce the Settlement Deed before the trial Court. The respondents, pursuant to the direction, have produced the Settlement Deed before this Court.

6.The petitioner in her affidavit filed in support of the Interlocutory Application indicated that it was only from the written statement she came to know about the Settlement Deed, which necessitated the amendment of plaint. The application was dismissed by the trial Court primarily on the ground of delay. The trial Court was of the view that in case the application was allowed, the respondents herein should be given liberty to file an additional written statement.

7.It is a matter of record that only after issuing a direction in CRP

(PD).No.3832 of 2015, the respondents produced the Settlement Deed before the trial Court. The petitioner without further delay filed the application for amendment. In case the back ground facts are seen in the correct perspective, it cannot be said that the application in I.A.No.175 of 2015 was filed belatedly. The learned trial Judge was therefore, not correct in dismissing the application on the ground of delay.

8.In the result, the order dated 28.03.2016 is set aside. The application in I.A.No.175 of 2015 is allowed. The trial Court is directed to permit the respondents to file additional written statement, in view of the amendment made to the plaint. There shall be a further direction to dispose of the suit as expeditiously as possible.

The Civil Revision Petition is allowed as indicated above. No costs. Consequently connected miscellaneous petition is closed.

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Index : Yes/No

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K.K.SASIDHARAN, J.

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