

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **06.09.2016**

CORAM:

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

**C.R.P.(P.D.) No.2544 of 2016**

Perumal

...Petitioner

versus

1.Arjunan  
2.Anbazhagan  
3.Narayanan  
4.Raman  
5.Ravichandran  
6.Omsakshi  
7.Thanthoni  
8.Ellammal  
9.Saroja  
10.Rajeswari

...Respondents

**PRAYER:** Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 21.01.2015 passed by the learned District Munsif, Madurantakkam, Kanchipuram District, allowing I.A.No.1837 of 2014 in O.S.No.545 of 2014 and dismiss the I.A.No.1837 of 2014 in O.S.No.545 of 2014.

For Petitioner : Mr.V.Varadharajan

**ORDER**

This Civil Revision Petition is directed against the order dated 20 January 2016 in I.A.No.1837 of 2014 in O.S.No.545 of 2014 whereby and whereunder, the learned Trial Judge allowed the application filed by the respondents to receive additional written statement.

2. The petitioner filed a suit in O.S.No.545 of 2014 before the learned District Munsif,istrict Munsif, Maduranthakam, praying for a decree of declaration and consequential injunction. The suit was contested by the respondents by filing written statement.

3. The respondents thereafter filed an application in I.A.No.1837 of 2014 to receive additional written statement. The application was allowed by the learned Trial Judge notwithstanding the counter affidavit filed by the petitioner opposing the application. Feeling aggrieved, the petitioner is before this Court with this Civil Revision Petition.

4. The learned counsel for the petitioner contended that the respondents filed written statement originally with certain contentions. Thereafter, they have filed additional written statement along with application with statements contradictory to the stand taken earlier. Such being the factual position, the learned trial Judge was not correct in allowing the application.

5. The petitioner filed the suit for declaration and injunction claiming that the suit property absolutely belongs to him and there was an attempt to trespass into the property, by the respondents. The first

respondent filed a written statement, which was adopted by the respondents 2 to 10, wherein, they have contended that they are in ownership and possession of the property in question. The respondents have taken up a further contention that the Partition Deed dated 2.12.2010 partitioning the property is valid and the same does not call for interference.

6. The respondents thereafter, filed application in I.A.No.1837 of 2014 to receive additional written statement. In the additional written statement, the respondents have taken up a plea that their possession is continuous and uninterrupted and as such, the petitioner has no right to claim the property in question. The so called inconsistent stand taken by the respondents in the additional written statement appears to be the reason for filing this Civil Revision Petition by the petitioner.

7. It is true that the respondents earlier took a particular stand. Thereafter, they have turned round and made an alternative statement with regard to perfection of right by adverse possession. It is not as if the moment a written statement with a particular contention is filed by the respondents, the Court is bound to accept the claim. It is for the respondents to plead and prove that either they are in possession of the

property, on the basis of a valid document, or they have perfected their title by adverse possession.

8. There is no question of considering the merits of the claim made in the additional written statement while considering the application for receiving the additional written statement. The merits or otherwise of the contentions taken in the additional written statement would be considered only during the time of trial.

9. The learned trial Judge exercised his discretion in a particular manner. It is not for this Court to sit in appeal over the said decision. I am therefore of the view that there is absolutely no merit in the contention taken by the petitioner.

10. In the upshot, I dismiss the Civil Revision Petition. No costs. It is open to the petitioner to file a rejoinder to the additional written statement filed by the respondents, if he is so advised.

**06.09.2016**

Index:Yes/No  
svki

**K.K.SASIDHARAN, J.**

(svki)

To

The Principal District Munsif Judge,  
Cuddalore.

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