

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **05.10.2016**

CORAM:

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

C.R.P.(P.D.) No.2607 of 2016

1.Ponnan
2.Arumugam : Petitioners
versus

1.Balakrishnan
2.Rani
3.E.Punniyakoti
4.E.Prabhu
5.Banupriya : Respondents

PRAYER: Revision filed against the order dated 22.12.2015 in I.A.No.160 of 2015 in O.S.No.800 of 2010 on the file of the Additional District Munsif Court, Alandur.

For petitioner : Mr.B.Vijay

For respondent : No appearance

ORDER

The petitioners filed an application for amendment of the plaint for the purpose of including one item of property for partition. Since the application was filed after commencement of trial, the learned Additional District Munsif, Alandur, dismissed it on the ground that satisfactory

reasons were not given. The said order is under challenge in this civil revision petition.

2. Heard the learned counsel for the petitioner. None appears on behalf of the respondent.

3. The suit in O.S.No.800 of 2010 was instituted by the petitioners for partition. The respondents filed written statement and opposed the prayer for partition. It is true that only after filing the chief affidavit of the petitioners, they filed the application in I.A.No.160 of 2015 for amendment of plaint. The amendment is only for the purpose of including an item of property to be partitioned. Since the suit is one for partition, even the respondents herein could be transposed as plaintiffs at any point of time. The background facts also indicate that immediately after filing chief affidavit, the petitioners have filed the application in I.A.No.160 of 2015. Since the suit is only for partition, I am of the view that opportunity should have been given to the petitioners to include the subject property in the plaint schedule. The learned Trial Judge dismissed the application only on the ground that the petitioners failed to demonstrate that due diligence was shown. I am of the view that the application ought to have been allowed.

4. The order dated 22 December 2015 is set aside. The application in I.A.No.160 of 2015 is allowed.

5. The civil revision petition is allowed. No costs. Consequently, C.M.P.No.13412 of 2016 is closed.

6. It is needless to point out that opportunity should be given to the respondent to file additional written statement.

05.10.2016

Index:Yes/no
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To
The Additional District Munsif Court, Alandur

K.K.SASIDHARAN, J.

(tar)

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