

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **10.11.2016**

CORAM:

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

C.R.P.(P.D.) No.3053 of 2016 and
CMP.No.15450 of 2016

Maniyal

...Petitioner

versus

1. Velusamy

2. Rajammal

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 05.08.2016 passed in I.A.No.515 of 2016 in O.S.No.112 of 201 on the file of District Munsif Court, Sathyamangalam.

For Petitioner : Mr.V.Lakshminarayanan for
Mr.G.K.Muthukumaar

For Respondents : Mr.A.Mohamed Ismail

ORDER

The petitioner filed a suit in O.S.No.112 of 2014 praying for a decree of permanent injunction, restraining the respondents from obstructing the use and enjoyment of the cart track marked as A, B, C, D, E and F. The suit was contested by the respondents by filing written

statement, wherein a contention was taken that they are in possession of the property on the strength of Sale Deed dated 10.8.1977.

2. Subsequently, the trial court commenced trial. After examining the witness on the side of the petitioner, she filed an application in I.A.No.515 of 2016 for amendment of the plaint. The application was dismissed by the trial court on the ground of delay and introduction of a new case. Feeling aggrieved, the petitioner is before this Court.

3. The learned counsel for the petitioner contended that even after amendment, the case of the petitioner is that she has been enjoying the cart track in question. According to the learned counsel, it was only on account of the contention taken by the respondents in the written statement with regard to sale deed dated 10.8.1977, the prayer was sought to be amended. According to the learned counsel, even after amendment, the issue would remain the same, without introducing a new case.

4. The suit was filed by the petitioner for injunction. The petitioner in the plaint originally filed contended that she has been using the Cart Track which has been marked as A, B, C, D, E and F, to reach

her plot. It is the specific contention of the petitioner that the respondents denied the access to her property.

5. It is true that application for amendment was filed only after commencement of the trial.

6. The petitioner has given justifiable reasons for filing an application for amendment. In a matter of this, nature of relief sought in the application for amendment cannot be rejected, without valid reasons. The Court should be in a position to decide the matter once for all, without making the parties to reagitate later.

7. I have perused the plaint originally filed and the plaint sought to be amended as prayed for in the Interlocutory Application No.515 of 2016.

8. After hearing the learned counsel for the parties and perusing the pleadings, I am of the view that the petitioner should be permitted to amend the plaint.

9. In the result, the order dated 5.8.2016 is set aside. The

application in I.A.No.515 of 2016 in O.S.No.112 of 2014 is allowed. The learned trial Judge is directed to give opportunity to the respondent to file written statement after carrying out the amendment by the petitioner.

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

10.11.2016

Index:Yes/No
ajr

To

District Munsif Court, Sathyamangalam

K.K.SASIDHARAN, J.

ajr

C.R.P.(P.D.) No.3053 of 2016

10.11.2016