

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2016

CORAM

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.PD.No.3752 of 2016
and C.M.P.No.19098 of 2016

1. M.Kuppusamy @ Manthiri
2. V.Revathy
3. V.Sankar Ganesh
4. V.Sudha
5. V.Kavitha

... Petitioners

Vs.

1. A.Kannan
2. A.Mathiyazhagan
3. A.Jaya
4. A.Surendra Babu
5. A.Sasirekha

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 15.12.2015 passed in I.A.No.296 of 2015 in O.S.No.91 of 2014 on the file of I Additional District Judge, Salem.

For Petitioners:Mr.P.Jagadeesan

ORDER

This Civil Revision is directed against the order allowing the amendment petition filed under Order VI Rule 17 C.P.C to amend the details mentioned in the petition, namely, including a property .

2. It is stated by the respondents that the property was omitted to be included in the suit. The application was resisted by the petitioners herein / defendants on various grounds stating that the said property is not available for partition. It was gifted to one Palaniammal by Pachamuthu Ammal and the plaintiffs cannot have any share in the same as they are not the descendants of male issue. Admittedly, the pleadings are complete in the suit and the same was posted for trial. At this juncture, this application is filed, which is only a pre-trial amendment. Hence, the learned Additional District Judge has allowed the application on the ground that the proposed amendment is necessary to decide the real dispute between the parties and in order to avoid the multiplicity of proceedings. The amendment petition allowed does not alter the basic structure of the suit.

3. The suit is one for partition and one of the property is sought to be included. It may be open to the petitioners/defendants themselves to raise the question of partial partition, if the amendment is not allowed. Therefore, no prejudice would be caused to the petitioners, if the amendment is allowed. Hence, the order of the I Additional District Judge does not suffer from any irregularity and the revision is liable to be dismissed.

4. Accordingly, this Civil Revision is dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

05.12.2016

Index : Yes/No

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To

The I Additional District Judge,
Salem.

PUSHPA SATHYANARAYANA.J

srn

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