

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 23.02.2016**

**CORAM**

**THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR**

**C.R.P (PD) No.485 of 2016**

**&**

**C.M.P.No.2499 of 2016**

1.Siddhaiyan @ Ayyavoo  
2.Amudha  
3.Karthi

... Petitioners

vs.

1.Sumathi  
2.Periyakka

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 12.09.2015 passed in I.A.No.676 of 2015 in O.S.No.194 of 2008 on the file of District Munsif Court, Sankari.

For Petitioner : M/s.P.Jagadeesan

**ORDER**

The defendants 1, 3 and 4 in O.S.No.194 of 2008 pending on the file of District Munsif, Sankari are the petitioners in the present Civil Revision Petition.

2. The suit was filed by the first respondent against the petitioners

herein and the second respondent herein for the declaration of title in respect of Items 1 and 2 of the suit properties, a further declaration that the suit cart track described as Item 3 of the suit properties is a common cart track belonging to the plaintiffs and the defendants and for a mandatory injunction to restore the cart track, which has been stated to have been obliterated by the defendants. After issues were framed, evidence on both sides were let in and the matter stood listed for hearing arguments. The petitioners herein/defendants 1, 3 and 4 filed 2 applications, one for reopening the case and the other one for permission to file additional written statement. Both the applications were dismissed by the trial Court and the said orders were challenged by filing revisions in C.R.P.Nos.3591 and 3592 of 2014 and the said Civil Revision Petitions came to be dismissed on 09.10.2014. Thereafter, on verification, the trial Court found a deficiency in the Court fee paid by the plaintiff to an extent of 50 paise. As per the direction of the Court, the plaintiff paid the deficit Court of 50 paise and consequently amended the plaint regarding the Court fee payable and the Court fee paid. The said amendment being consequential and formal one, the trial Court need not have given time to the defendants to file additional written statement, if any. Some how or other, as a routine practice, the learned trial Judge seems to have posted the matter after amendment, for filing additional written statement, if any.

3. Taking advantage of the said order, the petitioners herein and the

second respondent herein, who are the defendants 1 to 4, filed an additional written statement without confining the pleas regarding the payment of additional Court fee of 50 paise to make good the deficiency caused by inadvertence and its consequences. They incorporated all the additional pleas of defence, which were contained in the additional written statement, which was rejected in the earlier proceedings. The said opportunism was countered by the first respondent herein/plaintiff by filing I.A.No.676 of 2015 for the rejection of the additional written statement.

4. The learned trial Judge, after hearing both sides, allowed the said application by order dated 12.09.2015 and rejected the additional written statement dated 15.06.2015. As against the said order of the trial Court dated 12.09.2015 made in I.A.No.676 of 2015 in O.S.No.194 of 2008, the present revision has been filed under Article 227 of the Constitution of India.

5. The matter stands listed today for admission. Upon hearing the submissions made by Mr.P.Jagadeesan, learned counsel for the petitioners and after perusing the records produced in the form of typed-set of papers, including the copy of the impugned order, this Court is of the view that there is no substance in the revision and the same deserves to be dismissed at the threshold. The only additional plea that could have been raised by the defendants in the above suit is regarding the belated payment of the deficit Court fee of 50 paise. Instead of confining the additional plea in the form of

additional written statement to the said aspect, the defendants chose to virtually re-present the written statement, which was filed earlier and rejected, which order rejecting the additional written statement was also confirmed by this Court in the earlier Civil Revision Petitions. Therefore, there is lack of bonafide on the part of the petitioners and the second respondent in making such a second attempt.

6. The learned trial Judge has not committed any error in allowing the application filed by the plaintiff and rejecting the additional written statement filed by the defendants. For all the reasons stated above, the revision fails and the same deserves dismissal.

Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

**23.02.2016**

Index: Yes/No  
Internet: yes  
gpa

To

The District Munsif Court  
Sankari

**P.R.SHIVAKUMAR.J.,**

gpa

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