

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2016

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

CRP (NPD) No.578 of 2016

- 1.Palaniammal
W/o.Late Arumugam
Pallakadu, Kuppanoor Post,
Devagoundanoor Village,
Sankari Taluk, Salem District.
Staying at : Thoppaiyankadu
Korakattampalayam, Moodamangalam,
Tiruchengode Taluk, Namakkal District.
- 2.P.Mohanraj
S/o.Palanisamy
Thoppaiyankadu, Korakattampalayam,
Moodamangalam, Tiruchengode Taluk,
Namakkal District.
- 3.P.Sivakumar
S/o.Palanisamy
Thoppaiyankadu, Korakattampalayam,
Moodamangalam Village, Tiruchengode Taluk,
Namakkal District. .. Petitioners

Vs

- 1.A.Subramani
S/o.Late Arumugam
Devagoundanoor Village,
Sankari Taluk, Salem District.
- 2.N.Rangasamy
S/o.Nachi Gounder
Pallakadu, Kuppanoor Post,
Devagoundanoor Village,
Sankari Taluk, Salem District.

3.R.Anbu
S/o.Rangasamy
Pallakadu, Kuppanoor Post,
Devagoundanoor Village,
Sankari Taluk, Salem District.

4.R.Subramani
S/o.Rangasamy
Pallakadu, Kuppanoor Post,
Devagoundanoor Village,
Sankari Taluk, Salem District.

.. Respondents

Prayer:- Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the fair and decretal order in I.A.No.105 of 2015 in A.S.No.48 of 2013 dated 13.10.2015 on the file of the learned III Additional District Judge, Salem.

For Petitioners :Mr.M.Devaraj

ORDER

The plaintiffs are the revision petitioners herein.

1.1. The suit has been filed in O.S.No.112 of 2008 on the file of Sub Court, Sankari, seeking the relief of preliminary decree for partition and permanent injunction against the defendants. That suit came to be dismissed on 06.10.2012 and challenging the same, appeal has been filed in A.S.No.48 of 2013 on the file of District Court, Salem by the appellants/plaintiffs.

1.2. In the appeal, an application in I.A.No.105 of 2015 has been filed by the petitioners/appellants/plaintiffs seeking to amend the description of the suit property. The said application was

opposed by the respondents. The Court below dismissed the application in I.A.No.105 of 2015, by the order on 13.10.2015.

2. The perusal of the order passed by the Court below in I.A.No.105 of 2015 would reveal that the objection with regard to incorrect description of property and with regard to non joinder of necessary parties was taken by the defendants/respondents at the earliest point of time, but still the appellant/plaintiff did not take steps to rectify the defects immediately.

2.1. If the amendment is permitted, after passing of the decree, i.e., at the appeal stage, the defendants/respondents would be put into great hardship and it would amount to introduction of a new case causing prejudice to the defendants/respondents. Hence, the decision of the First Appellate Court in dismissing the application for amendment cannot be said to be improper or illegal.

3. There is no merit in the revision petition and it is liable to be dismissed. Accordingly this Civil Revision Petition is dismissed. No costs.

26.02.2016

ds

To
The III Additional District Judge,
Salem.

S.VIMALA ,J.,

ds

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