

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2016

CORAM:

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

**CRP (PD) NO.721 OF 2016**  
**AND CMP NO.3725 OF 2016**

Kuppayammal

... Petitioner

***Versus***

M.Arunavadivel

... Respondent

**PRAYER:** Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 19.11.2014 made in I.A.No.389 of 2014 in O.S.No.202 of 2013 on the file of the 1<sup>st</sup> Additional Sub Court, Erode.

For Petitioner : Mr.S.Lakshmanasamy  
For Respondent : No appearance

**ORDER**

This Civil Revision Petition is directed against the order dated 19.11.2014 in I.A.No.389 of 2014 in O.S.No.202 of 2013 whereby and whereunder, the learned Trial Judge allowed the application and permitted the respondent herein to amend the plaint in O.S.No.202 of

2013.

2. Heard the learned counsel for the petitioner. None appears on behalf of the respondent in spite of printing his name in the cause list after service.

3. The respondent filed the suit for partition and separate possession. In the said suit, the petitioner filed a written statement admitting the factual position that she is in joint possession and enjoyment of the property.

4. The suit was contested by the petitioner by filing written statement. Subsequently, the respondent filed an application in I.A.No.389 of 2014 for amendment of the plaint.

5. The affidavit filed in support of the said application is bereft of particulars. The application does not contain the details of amendment sought to be made in the plaint. The learned Trial Judge allowed the application primarily on the ground that no prejudice would be caused by permitting amendment.

6. While considering an application under Order VII Rule 6

CPC, the Court has to consider as to whether the amendment of the plaint would alter the nature of the suit, so as to cause prejudice to the other party. Unfortunately, no such effort was made by the learned Trial Judge. I am therefore of the view that the impugned order is liable to be set aside.

7. The order dated 19.11.2014 in I.A.No.389 of 2014 is set aside. The application in I.A.No.389 of 2014 is restored to file. The respondent is given liberty to file a fresh affidavit indicating the amendment to be made in the plaint in O.S.No.202 of 2013. The petitioner should be given reasonable time to file counter.

8. The learned Trial Judge is directed to take up the matter in I.A.No.389 of 2014 afresh and dispose of the same on merits and as per law.

9. The Civil Revision Petition is allowed to the extent indicated above. No costs. Consequently, connected civil miscellaneous petition is closed.

**04.11.2016**

TK

**K.K.SASIDHARAN, J.**

TK

To

The I Additional Sub Court  
Erode.

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