

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1471 of 2017
& C.M.P.No.6838 of 2017

1.Visalachi
2.C.Sampath

.. Petitioners

Vs.

Pavayee (died)

1.Pavayammal
2.Athayammal
3.Angammal @ Angayammal

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order in I.A.No.1031 of 2016 in O.S.No.295 of 2014 dated 14.11.2016 on the file of the Principal District Munsif Court, Erode.

For Petitioner : Mr.R.Karthikeyan

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order in I.A.No.1031 of 2016 in O.S.No.295 of 2014 dated 14.11.2016 on the file of the Principal District Munsif Court, Erode.

2. The petitioners are the defendants and the respondents are the plaintiffs. The respondent filed suit in O.S.No.295 of 2014 for permanent injunction and mandatory injunction in respect of the suit property mentioned in the schedule to the plaint.

3. The petitioners have filed their written statement and counter claim on 01.07.2015 and are contesting the suit. The trial commenced and PW1 was examined. The respondents 1 to 4 have filed in I.A.No.373 of 2016 to amend the plaint as detailed in the petition by including survey numbers in the description of the property mentioned in the schedule to the plaint.

4. According to the respondents after filing of the suit, on verification of the revenue records, they came to know that the suit properties are situated in other survey numbers also. In the circumstances, they have filed present application for amendment to include the survey numbers as found in the revenue records.

5. The petitioners have filed their counter affidavit and opposed the said application and submitted that the documents

relied on by the respondents are fabricated one and if the survey numbers in the document are not correct, it means that the document itself is a fabricated one. By amendment, the respondents are introducing the new cause of action.

6. The learned judge, considering the averments mentioned in the affidavit, counter affidavit, materials available on record, allowed the application holding that no new cause of action is introduced and by amendment the character of the suit is not changed and no prejudice will be caused to the petitioners.

7. Against the said order dated 14.11.2016 made in I.A.No.1031 of 2016 the present Civil Revision Petition has been filed by the petitioners.

8. Heard the learned counsel for the petitioner and perused the materials available on record.

9. The respondents filed I.A.No.1031 of 2016 for amendment of the schedule to the plaint to include the survey numbers. According to the respondents, they came to know about the survey

numbers from the revenue numbers. Apart from amending the schedule to the plaint, to include the survey numbers, the respondents are not seeking amendment in the plaint to include further averments or amend the cause of action portion in the plaint.

10. In view of the same, the contention of the learned counsel for the petitioners that the respondents are introducing new cause of action and changing the character of the suit has no merits. In view of the finding that the respondents are not introducing any new cause of action by way of an amendment, the character of the suit is not changed. In the circumstance, I do not find any illegality or irregularity in the order passed by the learned Judge warranting interference by this Court. It is open to the petitioners to file additional written statement. The suit is of the year 2014. The learned Principal District Munsif, Erode, is directed to dispose of the suit in O.S.No.295 of 2014, on merits and in accordance with law, as expeditiously as possible, in any event, not later than 31.10.2017.

11. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

21.04.2017

Index : Yes

dm/gya

To

The Principal District Munsif,
Erode.

V.M.VELUMANI, J.

dm/gya

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