

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **17.04.2017**

CORAM:

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

C.R.P.(P.D.) No.1966 of 2014

1.Gokila Ammal
2.Kumaresan

: Petitioners

versus

1.Thangavel
2.Unnamalai

: Respondents

PRAYER: Revision filed against the order dated 17.02.2014, in I.A.No.46 of 2014 in O.S.No.854 of 2011 on the file of the Additional District Munsif, Chengam.

For petitioners :: Mr.C.Munusamy

For respondents :: No appearance

ORDER

The respondents filed the suit in O.S.No.854 of 2011 for partition. The suit was contested by the petitioners. The respondent filed an application in I.A.No.46 of 2014 for amendment of the plaint. The application was allowed by the Trial Court notwithstanding the objection raised by the petitioners. Feeling aggrieved, the unsuccessful respondent in I.A.No.46 of 2014 have come up with this civil revision petition.

2. Heard the learned counsel for the petitioners. There is no representation for the respondents.

3. The suit in O.S.No.854 of 2011 was filed for partition. There is an indication in the written statement filed by the respondents that a portion of the property has already been acquired by the National Highways Authority. The respondents in the affidavit filed in support of the application in I.A.No.46 of 2014 wanted the plaint to be amended taking into account the acquisition. However, neither in the application nor in the order passed by the learned Trial Judge, there is an indication as to why the amendment is necessary. The learned Trial Judge proceeded as if the amendment is absolutely necessary for an effective adjudication of the matter. There is no reason muchless justifiable reason given by the learned Trial Judge to allow the application filed by the respondent for amendment. I am therefore of the view that the matter requires fresh consideration by the learned Trial Judge.

4. In the result, the order dated 17 February 2014 is set aside. The application in I.A.No.46 of 2014 is restored to file. The learned Additional District Munsif, Chengam, is directed to take up the application in I.A.No.46

of 2014 and decide the same on merits and as per law, after giving reasonable opportunities to both sides. Such exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

5. The civil revision petition is allowed to the extent indicated above.
No costs. Consequently, M.P.No.1 of 2014 is closed.

17.04.2017

Index:Yes/no
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To
The Additional District Munsif, Chengam.

K.K.SASIDHARAN, J.

(tar)

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