

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **19.06.2017**

CORAM:

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

C.R.P.(P.D.) No.3701 of 2014

R.Devi : Petitioner

versus

1.S.Kanthakumar

2.S.Ranjitham

3.M.Revathi : Respondents

PRAYER: Revision filed against the order dated 19.3.2014, in I.A.No.115 of 2014 in O.S.No.459 of 2012 on the file of the II Additional Subordinate Judge, Salem.

For petitioner :: Mr.N.Vijaya Baskar

For respondents :: No appearance

ORDER

The petitioner filed a suit for partition against the respondents. The petitioner, in Schedule I of the suit property, made a claim for partition in respect of 540 sq.ft. of land. The suit was opposed by the respondents.

2. The petitioner, after the commencement of trial, filed an application in I.A.No.115 of 2014 for amendment of the schedule, to substitute 240 sq.ft. in the place of 540 sq.ft.. The application was dismissed by the Trial Court. The order is under challenge in this civil revision petition.

3. Heard the learned counsel for the petitioner. None appeared on behalf of the respondent.

4. The petitioner made a claim for partition of the property having an extent of 540 sq.ft. Subsequently, the petitioner found that only 240 sq.ft. was available for partition. The petitioner therefore filed an application for amendment.

5. The Trial Court dismissed the application primarily on the ground that the petition was also for amending the four boundaries of the property. The other reason was that the other co-sharers were not added as parties.

6. The application for amendment cannot be dismissed only on the ground that other co-sharers were not added as parties. In case the Court was of the view that the earlier schedule with regard to the extent of area was made inadvertently, the petitioner should have been permitted to

amend the extent. The petitioner claimed partition in respect of a larger extent. Subsequent application was to reduce the same by substituting 240 sq.ft. in the place of 540 sq.ft. The learned counsel for the petitioner submitted that there is no need for adding boundaries for the property and as such, the Trial Court was not correct in making observation with regard to the same.

7. The order passed by the learned Trial Judge is set aside. The petitioner is permitted to amend the schedule by substituting 240 sq.ft in the place of 540 sq.ft. He would not be permitted to incorporate any other substitution including boundaries.

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

19.06.2017

Index:Yes/no
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To
The II Additional Subordinate Judge, Salem.

K.K.SASIDHARAN, J.

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