

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2017

C O R A M

THE HONOURABLE Mrs.JUSTICE **PUSHPA SATHYANARAYANA**

C.R.P.P.D.No.438 of 2017
and C.M.P.No.2122 of 2017

1. D.C.Muniraj
2. R.Maadhu
3. M.Muniammal
4. L.Govindammal
5. K.Palanimammal
Petitioners

..

-Vs.-

1.C.Mariamammal
2.D.C.Maadhu
3.M.Marimuthu
4.R.Kaveriamammal
5.D.C.Pandiyan

.. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order of the learned Principal District Judge, Dharmapuri dated 29.11.2016 made in I.A.No.173 of 2016 in O.S.No.45 of 2013.

For petitioner ...Mr.I.Abrar Mohamed Abdullah

O R D E R

The plaintiffs are the petitioners in this revision.

2. The revision is directed against the order dismissing the amendment application after commencement of trial.

3. The suit is filed for partition. The case of the plaintiffs is that suit survey numbers were sub divided in the year 1983. So, the suit property has to be amended in accordance with the same. The suit is filed in the year 2013. Thereafter, the plaintiffs had filed an application to amend the plaint in I.A.No.217 of 2015, which was allowed on 06.01.2016. This is the second application filed by the plaintiffs for amendment of the plaint. It is also stated that the suit was posted in the special list and it was dismissed for default. Thereafter, it was restored and an amendment application was allowed. Now, the trial is in progress. At this stage, the above application is filed to amend the plaint with respect to the suit property, which is stated to have been sub-divided. However, it is stated in the affidavit filed in support of the application that the sub-division has taken place as early as on 16.12.1983. Even at the time of filing of the plaint, the plaintiffs should have stated the correct survey numbers. Though the sub division has taken place in the year 1983, as per the affidavit of the petitioners, there is no document produced to evidence the same. Even otherwise, after the commencement of trial, if the amendment is allowed, it would cause

serious prejudice to the other side and also change the scheme in respect of the suit property. Hence, the order of the learned trial Judge is correct. There is no reason to interfere with the same.

4. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

08.02.2017

srn

To

The Principal District Judge,
Dharmapuri

PUSHPA SATHYANARAYANA.J

srn

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