

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2017

C O R A M

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.P.D.No.4986 of 2014
and M.P.No.1 of 2014

1. S.Manoharan
2. S.Sundra Kumar

.. Petitioners

-Vs.-

1. S.Ravindran
2. Seethalakshmi
3. Sakunthala
4. V.Chandra

.. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order of the learned Subordinate Judge, Dharapuram made in I.A.No.384 of 2014 in O.S.No.264 of 2012 dated 08.09.2014.

For petitioners	... Mr.R.Syed Mustafa
For Respondent-1	... Mr.A.Thiyagarajan
For Respondents-2 to 4	... Mr.D.Thirumoorthy

O R D E R

The revision petition is filed by the defendants 1 and 2

challenging the order refusing to transpose the defendants 4,6 and 7 as plaintiffs 2 to 4 in a suit filed by the plaintiff for relief of partition against seven defendants.

2. The case is at the stage of trial and the examination of P.W.1. has commenced. The defendants 4, 6 and 7 had not filed their written statement originally and they were set ex-parte. After filing of the written statement by the petitioners / defendants 1 and 2, the respondents 2 to 4/defendants 4, 6 and 7 have filed their written statement. It is also stated that the ex-parte order against defendants 4, 6 and 7 was set aside and they have also filed their written statement. At this stage, the application for transposition has been filed. The said application was dismissed by the learned trial Judge on the ground that no prejudice would be caused, if the defendants 4,6 and 7 continue as it is.

3. The case of the revision petitioners is that the defendants 4, 6 and 7 are supporting the case of the plaintiffs. Therefore, if they are transposed, they would be given an opportunity for

cross examining them.

4. Being a suit for partition, the parties to the suit take a role of both the plaintiffs and the defendants. Therefore, the transposition of parties will not take away their right that is existing. Therefore, the learned trial Judge has dismissed the application correctly. When the status of the parties are not changed in a suit for partition on transposition, the application filed by the defendants is unnecessary and the same has rightly been dismissed by the learned trial Judge which does not warrant any interference by this Court and the same is confirmed.

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

04.01.2017

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To

The Subordinate Judge, Dharapuram

PUSHPA SATHYANARAYANA.J

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