

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2017

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(PD).No.2867 of 2016
and
C.M.P.No.14564 of 2016

1. Mani
2. Jayaraman

.. Petitioners

Vs.

Ranjithammal

.. Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 31.07.2015 in I.A.No.384 of 2010 in A.S.No.187 of 2005 on the file of the Principal District Court, Chengalpattu.

For petitioners : Mr.C.N.J.Hariharan for M/s.V.Nicholas

For respondents: Mr.V.V.Sairam for Mr.K.Shajahan

ORDER

This Civil Revision Petition is filed against the order allowing an amendment application at the appeal stage.

2. The suit is one for partition, filed by the respondent/plaintiff, which was decreed by the trial Court in respect of Sl.Nos.1, 2, 3 and 5 under Item No.2 of the suit schedule property and in respect of other items, the suit

was dismissed. Hence, an appeal was preferred in A.S.No.187 of 2005. Pending appeal, two applications were filed in I.A.Nos.283 and 363 of 2007 to receive certain documents as additional evidence. The said I.As. were allowed and the appeal was also allowed and the matter was remanded to the trial Court for adducing additional evidence and for disposal of the suit. Challenging the said order of remand, appeal was filed before this Court in C.M.A.No.3141 of 2007 before this Court, in which, the order of remand was set aside and the first appellate Court was directed to continue with the proceedings. The plaintiff has also filed I.A.Nos.187 of 2005 and 362 of 2007 to receive certain documents as additional evidence, which were allowed by the appellate Court, which was also confirmed by this Court in the C.R.P. One of the documents filed by the plaintiff was a patta pertaining to Patta No.109. As the properties mentioned in Patta No.109 belong to their family and as they were omitted to be added in the plaint, amendment application was filed for inclusion of the same in the plaint.

3. Though the amendment application was originally opposed by the defendants, it is pointed out by the learned counsel for the respondent/plaintiff that in the counter statement filed in the said I.A., it has been admitted by the defendants that the properties belong to the family, as the same was included in the copy of the Will in which the defendants claimed to be the beneficiaries. Having admitted the fact that the properties

belong to the family, the revision petitioners cannot have objection for including the same in the plaint.

4. Hence, the impugned order passed by the Court below is confirmed. The Civil Revision Petition is dismissed. It is open for the defendants to file additional written statement, if any. No costs. Consequently, C.M.P. is closed.

04.01.2017

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Copy to
The Principal District Judge, Chengalpattu.

PUSHPA SATHYANARAYANA, J

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