

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2017

CORAM

THE HON'BLE MR.JUSTICE M.DURAI SWAMY

**C.R.P.(PD) Nos.3757 of 2016 and 3351 of 2014
and C.M.P.No.19108 of 2016 & M.P.No.1 of 2014**

1.Easwari
2.Siva Bagiyam
3.Shanthi
4.Krishnaveni
5.Revathy
6.Senthivadivu
7.Thangavel
8.Poongodi
9.Theneeswari
10.Sayammal
11.Sivaguru
12.P.palanisamy
13.Gomathi
14.Krishnaveni

..Petitioners in both CRPs.

-vs-

R.Varadharajan

..Respondent in both CRPs.

Petitions filed under Article 227 of the Constitution of India, praying – (CRP.3757/2016) against the fair and final order dated 07.04.2016 passed in I.A.No.135 of 2016 in O.S.No.644 of 2009 on the file of I Addl. District Judge, Coimbatore and (CRP.3351/2014) against fair and final order dated 05.06.2014 passed in I.A.No.63 of 2014 in O.S.No.644 of 2009 on the file of I Addl. District Judge, Coimbatore.

For Petitioners in both CRPs. : Mr.I.Mouli

For Respondent in both CRPs. : Mr.R.Ramachandran

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COMMON ORDER

Challenging the fair and decretal order passed in I.A.No.63 of 2014 in O.S.No.644 of 2009 on the file of I Additional District Court, Coimbatore, defendants 5 to 18 have filed Civil Petition No.3351 of 2014.

2.The respondent / plaintiff filed the suit in O.S.No.644 of 2009 for partition. The defendants filed their written statement on 06.08.2010 and they are contesting the suit. When the suit was taken up for trial, the defendants filed an application in I.A.No.63 of 2014 to amend the written statement. The application was contested by the plaintiff stating that the present application filed by the defendants after the commencement of the trial cannot be allowed and that the defendants are seeking to withdraw the admission made by them in the written statement by way of amendment.

3.The trial Court, after taking into consideration the case of both the parties, dismissed the application. Since the defendants had sought for amendment of the written statement by withdrawing the admission made by them in the written statement, the trial Court has rightly dismissed the application. That apart, the application was filed after the commencement of trial, that too, without assigning any acceptable reason for filing the application at a belated stage.

4.After the dismissal of I.A.No.63 of 2014, the defendants took out another application in I.A.No.135 of 2016 to permit them to file additional written statement. The said application was also dismissed by the trial Court by order dated 07.04.2016, as against which C.R.P.No.3757 of 2016 has been preferred.

5.On perusal of the fair and decretal order passed in I.A.No.135 of 2016, it is clear that even in the additional written statement, the defendants sought to withdraw the admission made by them in the written statement. Since the trial Court had already dismissed the amendment application stating that the admission made by the defendants cannot be withdrawn by them by way of amendment, the same principle shall also apply to the application seeking permission

to file additional written statement. This application was also filed at a belated stage, after the commencement of trial. In these circumstances, the trial Court has rightly dismissed both the applications.

6.For the reasons stated above, I do not find any reason to interfere with the fair and decretal orders passed by the trial Court. The Civil Revision Petitions are devoid of merits and are, accordingly, dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

7.Since the suit is pending from 2009, I direct the learned I Additional District Judge, Coimbatore, to dispose of the suit in O.S.No.644 of 2009 on merits and in accordance with law, within a period of four (4) months from the date of receipt of a copy of this order.

22.03.2017

Speaking/Non-speaking order

Index : No
Internet : Yes
sra

To

1.The I Additional District Judge,
Coimbatore.

M.Duraiswamy, J.

(sra)

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and 3351 of 2014

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<http://www.judis.nic.in>