



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.R.P(PD) (MD)No.1300 of 2014

and

M.P.(MD)No.1 of 2014

1.Xavier Kennady
2.Sankareswari

...Petitioners

-Vs-

1.Mariya Selvam
2.Anthonraj
3.Arockiyam
4.Anthoni Ammal @ Jeyandhi
5.Rajendran
6.Sudha

...Respondents

PRAYER: Civil Revision Petition is filed, Under Article 227 of Constitution of India, praying to set aside the order dated 10.03.2014 made in I.A.No.41 of 2014 in O.S.No.220 of 2009 on the file of the learned Additional District Munsif Court, Tenkasi.

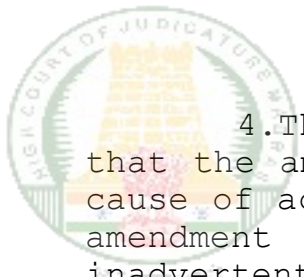
For Petitioners : Mr.M.Satheesan
For Respondents : Mr.V.M.Balamohan Thambi

ORDER

This Civil Revision Petition has been filed by the petitioners herein, who are the defendants in the suit in O.S.No.220 of 2009, as against the I.A.No.41 of 2014 in O.S.No.220 of 2009 on the file of the Additional District Munsif Court, Tenkasi.

2.The said suit in O.S.No.220 of 2009 has been filed by the respondents herein, seeking for declaration that the suit first schedule property belongs to the plaintiffs and defendants 3 to 5 jointly and for consequential injunction restraining the defendants 1 and 2 from interfering with their peaceful possession and enjoyment of the suit property.

3.The defendants 1 and 2 have filed their written statements. However, they made a counter claim in the written statement. The revision petitioners herein filed an application in I.A.No.41 of 2015 for amendment of plaint. The details of the amendment shows that the purpose of amendment is only to correct certain mistakes. However, the same was dismissed, by an order dated 10.03.2014 by the Lower Court mainly on the ground that the amendment application is filed only after the commencement of trial. Aggrieved by the same, the petitioners / defendants have filed this Civil Revision Petition.



4.The learned counsel appearing for the petitioners submits that the amendment is not to introduce a new case or to change the cause of action, which is already made in the pleadings. Since the amendment is purely to correct certain mistakes, which are inadvertent, the Lower Court has committed serious error in dismissing the petition. It is also stated by the learned counsel appearing for the petitioners that no prejudice is likely to be caused to the respondents, if the amendment is allowed.

5.The learned counsel appearing for the respondents submitted that the suit was filed in the year 2009 and the petition for amendment was filed in the year 2014, after commencement of trial and there is no explanation for the delay in filing the application for amendment.

6.This Court is of the considered view that the amendment, which is sought for by the petitioners herein, is made only to correct certain mistakes in the original written statement. The amendment is also necessary as the same only will give explanation to the written statement.

7.In the above circumstances, in the interest of justice, this Court is inclined to allow this petition. Accordingly, this Civil Revision Petition is allowed. The order dated 10.03.2014 made in I.A.No.41 of 2014 in O.S.No.220 of 2009 passed by the learned Additional District Munsif Court, Tenkasi, is set aside and the application in I.A.No.41 of 2014 stands allowed.

8.The learned counsel appearing for the respondents states that the suit was filed in the year 2009 and a direction for speedy disposal would be issued to the Lower Court in the interest of justice.

9.Considering the fact that the suit is pending from the year 2009, this Court is inclined to direct the learned Additional District Munsif Court, Tenkasi, to expedite the trial and dispose of the suit, within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar(CS-I)

To

The Additional District Munsif, Tenkasi.

+1CC to Mr.M/S.JEYAKARTHIK, Advocate, SR.No.76867

C.R.P(PD) (MD)No.1300 of 2014

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