



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.08.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) No.1158 of 2016

and

C.M.P. (MD) .No.5705 of 2016

1.S.Thangavelu

2.R.Rajeswari

.. Revision Petitioners/Petitioners/
Plaintiffs

/Vs./

1.S.Masanam

2.P.Saroja

.. Respondents/Respondents/Defendants

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair order and decretal order passed in I.A.No.11 of 2016 in O.S.No.37 of 2014, dated 04.04.2016 on the file of the Additional District Judge, Ramanathapuram.

For Petitioners: M/s. J.Alaguram Jothi

For Respondents: Mr.V.Sitharanjan Das for R1

No Appearance for R2

ORDER

The plaintiffs in O.S.No.37 of 2014 on the file of the Additional District Judge, Ramanathapuram are the revision petitioners herein. It is a suit for partition. The plaintiff filed I.A.No.11 of 2016 for amending the plaint. The same was dismissed by order, dated 04.04.2016. Challenging the same this Civil Revision Petition has been filed.

2.Heard the counsel on either side.

3.As rightly pointed out by the learned counsel appearing for the respondents the suit was not filed straight away. It was preceded by exchange of notices. As rightly pointed out by the learned counsel for the respondents Sethurajan, who is the father of the first revision petitioner and the first respondent herein, executed a Inam settlement in favour of the first defendant, on 15.12.2014. The plaintiffs are very much aware of the same. In fact this awareness is exhibited from the plaint pleadings themselves. The defendants in their written statement also have taken a specific plea that without impleading the said settlement deed, the suit will not lie. Thereafter, issues were framed and trial commenced. PW1 was examined. At that stage, the present I.A.No.11 of 2016 was filed. This is a post trial amendment.



Therefore the plaintiffs will have to meet the standard set out in the proviso to Order 6 Rule 17 of C.P.C.

4. The Court below has categorically observed that due diligence was not shown by the plaintiffs herein. In para 6 of the impugned order, the Court below has given convincing reasons as to why the amendment application deserves to be dismissed. Confirming the reasons given by the Court below in para 6 of the impugned order, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar (CS-IV)

To

1. The Additional District Judge, Ramanathapuram.

+1 CC To MR.J.ALAGURAM JOTHI, Advocate SR. NO. 82119

C.R.P. (PD) (MD) No. 1158 of 2016
31.08.2018

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TR/SKN/SAR-IV(31.10.2018)2P 3C