



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) No.964 of 2016

and

C.M.P. (MD) No.4819 of 2016

Venkatesan

...Petitioner /Petitioner / Plaintiff

-vs-

1.Vishalatchi

2.Sivakumar

3.Amutha

...Respondents /Respondents/Defendants

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the fair and decreetal order dated 15.02.2016 passed in I.A.No.35 of 2016 in O.S.No.74 of 2010 on the file of the II Additional District and Sessions Judge, Thanjavur.

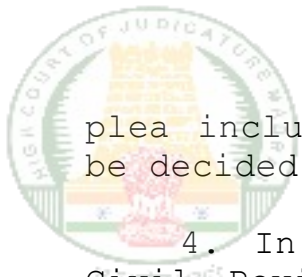
For Petitioner	: Mr.G.Karnan
For R1 & R2	: Mr.V.Chandrasekar
For R3	: Mr.D.Senthil

ORDER

The plaintiff in O.S.No.74 of 2010 on the file of the II Additional District and Sessions Judge, Thanjavur is the revision petitioner herein. The suit was filed for the relief of partition and separate possession in the year 2010. I.A.No.35 of 2016 was filed for amending the plaint seeking relief of declaration with regard to nullity of document dated 16.09.2009. The Court below by order dated 15.02.2016, dismissed the said application. Questioning the same, this present Civil Revision Petition is filed.

2.Heard the learned counsel on either side.

3.Considering the relationship between the parties and the fact that the suit is for partition and the revision petitioner was abroad, this Court sets aside the order impugned in this Civil Revision Petition and allows the Civil Revision Petition. It is made clear that the amendment will come into effect not from the date of institution of the suit but only from the date of filing of I.A.No.35 of 2016. In other words, the doctrine of relationback will not apply in this case. Secondly the contesting defendants are entitled to file additional written statement raising all the



plea including limitation. All the contentions are left open to be decided in the main suit.

4. In this view of the matter, the order impugned in this Civil Revision Petition is set aside and this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is also closed.

sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar(CS-II)

To

The II Additional District and Sessions Judge,
Thanjavur.

+1cc to Mr.V.Chandrasekar, Advocate SR.No.81157

+1cc to Mr.G.Karnan, Advocate SR.No.80812

TA

MK/RSK/SAR 2/17.09.2018/2P/4C

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