



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 02.03.2018

CORAM:

WEB COPY

THE HON'BLE MRS.JUSTICE S.RAMATHILAGAM

CRP(MD).No.1655 of 2013 (PD)
and
M.P(MD).No.1 of 2013

1.Arockiyasamy
2.Singarayar ... Petitioners/Petitioners/ Plaintiffs
Vs.

1.Amalraj
2.Annamery
3.Mariyapushpam
4.Anantha Vimalanathan
5.Yagappan
6.Jonameri ... Respondents /Respondents/Defendants

PRAYER: Civil Revision Petition filed under Section 227 of the Constitution of India, against the fair and Executable Order dated 12.08.2013 passed in I.A.No.3 of 2013 in O.S.No.18 of 2012 on the file of the District Munsif Court, Nilakottai.

For Petitioner : Mrs.S.Vijayashanthi
For Respondents : No Appearance

O R D E R

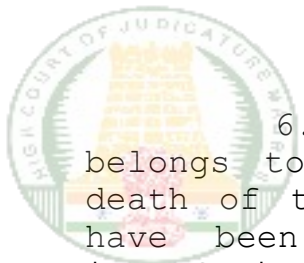
This Civil Revision Petition has been preferred against the fair and decreetal order, dated 12.08.2013, passed in I.A.No.3 of 2013 in O.S.No.18 of 2012 on the file of the District Munsif Court, Nilakottai.

2. The revision petitioners / plaintiffs have filed the suit in O.S.No.18 of 2012 seeking the relief that the defendants should not interfere with the peaceful possession and enjoyment of the suit property by the plaintiffs. Pending suit, they have filed I.A.No.3 of 2013 seeking to amend the plaint

3. In the counter-affidavit filed by the respondents / defendants, it is stated that the proposed amendment is highly prejudicial and the same would affect the rights of parties and totally displace the case of the defendants and hence, prayed for dismissal.

4. After hearing both sides, the trial Court has dismissed the application in I.A.No.3 of 2013, aggrieved which, the present Civil Revision Petition has been filed by the plaintiffs.

5. Heard the learned Counsel on either side and perused the materials available on record.



6. It is the averment in the plaint that the suit property belongs to the plaintiffs' father Viswasam Servai and after the death of the plaintiffs' father in the year 1971, the plaintiffs have been enjoying the property and as the defendants are interfering with their peaceful possession and enjoyment their right, they filed the suit. As they failed to mention that the suit property is their ancestral property, they have filed I.A.No.3 of 2013 seeking to amend the plaint.

7. In the counter affidavit, the defendants have stated that though the plaintiffs have stated that the suit third item belongs to their father in the plaint, they wanted to add a statement that the suit property is their ancestral property and that the plaintiffs have not stated whether the property belongs to the plaintiffs' father by way of sale or ancestral property and there is no document filed by the plaintiffs to prove their title and possession and enjoyment of the suit property. Hence, the argument of the petitioners / plaintiffs is that in order to contradict the written statement filed by the defendants, the petitioners / plaintiffs have filed a petition with regard to the nature of the suit property. The Trial Court, after verifying the pleadings filed by both sides and also the document, has given a finding that already an amendment was sought by the petitioners and that was allowed, and this petition was filed seeking amendment in the description of the property and the status of the property. The case is posted for trial. Though the plaintiffs' have sought for amendment with regard to the right over the property, the related documents have not been filed by the plaintiffs. Hence, in the absence of relevant documents, the petition filed by the plaintiffs was dismissed.

8. The original prayer that was sought by the plaintiffs is one for injunction against the defendants from interfering with their peaceful possession and enjoyment of the suit property. Since no document has been filed along with the petition, the amendment sought by the plaintiffs now to include the declaratory relief with regard to the right over the suit property, cannot be considered. Therefore, in my considered opinion, the learned Trial Judge was right in dismissing the application filed by the plaintiffs, which does not warrant any interference.

9. In the result, finding no merit, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

To:

The District Munsif , Nilakottai.

<https://hcservices.ecourts.gov.in/hcservices/>

Rm

RL/2C/2P/KKR/SAR1//20/3/2018

CRP(MD).No.1655 of 2013 (PD)

02.03.2018