

**HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN**

**Civil Revision Petition No.2922 of 2018**

**ORDER:**

Aggrieved by the dismissal of an application for amendment of the final decree, filed under Section 153 of the Code of Civil Procedure, 1908, the petitioners, who are the legal representatives of the 2<sup>nd</sup> defendant, have come up with the above revision.

2. Heard Mr. V.S.R. Anjaneyulu, learned counsel for the revision petitioners. Notice was ordered in this revision on 02-05-2018. Private notice was also permitted. Learned counsel for the revision petitioners has filed memo of service enclosing postal consignment track report. It shows that the items have been delivered. But no one has entered appearance for the respondents.

3. Even otherwise, the respondents 1 and 2 herein remained ex parte before the Court below and respondents 3 to 5 reported no objection. Therefore, service is deemed to be completed.

4. The suit was one for partition. Final decree was passed in the suit on 06-09-2011. According to the petitioners, there is no challenge to the final decree.

5. All that the petitioners wanted was only formal amendments to the schedule of certain items of properties, which were allotted to them. The amendments sought by the petitioners were as follows:

*"1. In Item No.5 on the eastern-side boundary wrongly mentioned as "Parandhamaiah's plot instead of "Road";*

*2. In Item No.6, the western side boundary wrongly mentioned as "Plot No.18" instead of the correct boundary i.e. "Road" and roads were visible in the plan prepared by our elders.*

*3. In Item No.13 at page No.11 in the preamble portion of Item No.13, demarcation No.97-1B shall be added."*

*4. In Item No.14 is also demarcation No.97-1B shall be added."*

6. We do not know what prevented the Court below from refusing the amendment, when the respondents 1 and 2 remained *ex parte* and the respondents 3 to 5 reported no objection. What is more disturbing is that the court below has proceeded on the basis as though it is a suit for recovery of money on a mortgage. It is actually a suit for partition. This shows total non-application of mind on the part of the court below.

7. In view of the above, the Civil Revision Petition is allowed, the impugned order is set aside, the application in I.A.No.3700 of 2017 for amendment shall stand allowed and the court below shall carry out the amendment and issue amended copy of the final decree. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.



**V. RAMASUBRAMANIAN, J**

Date: 14-09-2018

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