

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2019

CORAM

THE HONOURABLE **Mr.JUSTICE N. SATHISH KUMAR**

CRP.PD.No.4640 of 2010
and M.P.No.1 of 2010

Kamalammal (Died)

1. Vasudevan
2. Santha
3. Sundaramurthy
4. Krishnaveni
5. Sakunthala

... Petitioners

Vs

1. Arjuna Gounder (Deceased)
2. Salammal
3. Yuvarani
4. Muralikumar
5. Eswari

(RR2 to RR5 brought on
record as LR's of the deceased
sole respondent vide order
of Court dated 18.12.2013 made
in M.P.No.1 of 2013 in C.R.P.No.
4640 of 2010.

... Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decretal order dated 10.11.2010 made in I.A.No.992 of 2010 in O.S.No.219 of 1999 on the file of the Principal District Munsif Court, Vellore, Vellore District.

For Petitioners : M/s. S.T.Bharath Gowtham

For Respondents : No appearance

ORDER

This civil revision petition has been filed against the order of the Principal District Munsif Court, Vellore rejecting the application under Order 6 Rule 17 of C.P.C.

2. The suit has been filed for declaration of title and also for an injunction. The suit property is only a well. The suit was originally dismissed. Thereafter, appeal in A.S.No.15 of 2007 was filed before the Subordinate Court, Vellore. The appeal was allowed and the matter is again remitted back to the trial court for examination of further witnesses and additional documents. Thereafter, it appears that the application filed to implead the plaintiffs 4 to 6 in the above suit was allowed in I.A.No.1082 of 2009. Thereafter, he filed an amendment application to amend the plaint.

3. The allegations contained in the impleading petitions are one and the same in the amendment application, but, the trial Court has dismissed the amendment application. Admittedly, the suit has been filed in respect of the well, the amendment now sought in the plaint pertaining to the well only, how the rights have been accrued

to the parties on various documents and in fact, the suit was originally remanded for the purpose of marking additional documents pertaining to the well, only those documents were allowed to be marked.

4. Heard the learned counsel appearing for the petitioners and there is no appearance for the respondents.

5. This Court is of the view that necessary pleading with regard to the rights of the parties based on such document is also necessarily to be brought on record. Admittedly, the impleading petitions are already allowed and the plaintiffs 4 to 6 were added as plaintiffs that being the position, mere amending the plaint based on the additional documents were also already permitted to be marked, no prejudice would be caused to the other side by amending the plaint. The entire facts and documents are to be brought on record, in fact, which should enable the Court to arrive at a fair conclusion. Hence, since the amendment is only based on the registered documents, such amendment will not change the cause of action.

6. Accordingly, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

N. SATHISH KUMAR,J.

msv

7. The trial Court shall permit the parties to carry out the amendment and dispose of the suit within a period of six months from the date of receipt of a copy of this order.

04.04.2019

msv

Index:Yes/No

Internet:Yes/No

Speaking order: Non-speaking order

To

The Principal District Munsif Judge,
Vellore, Vellore District.

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