

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY
C.R.P.(NPD).No.1454 of 2006
and M.P.Nos.1 to 3 of 2013

B.T.Ramalingam ... Petitioner

Vs.

1.Pachiammal
2.Manimegalai
3.Nagarajan
4.Baggiyam
5.S.Kumar
6.Arivalagan
7.Arumugham
8.K.Jayaraman
9.R.Ravichandran
10.Sivbaggiyam
11.Ayyappan
12.Pasupathy

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order of the I Additional District Court, Salem dated 23.06.2006 in I.A.No.208 of 2006 in A.S.No.52 of 2005.

For Petitioner : Mr.S.Mukunth
for M/S.Sarvabhauman Associates
For Respondents : Mrs.R.Meenal
for Mr.T.Chezian (R2 to R4)

R6 to R12 - no appearance
R1 - died (steps taken)
R5 - not ready in notice

O R D E R

Challenging the fair and decreetal order passed in I.A.No.208 of 2006 in A.S.No.52 of 2005 on the file of the I Additional District Court, Salem, the plaintiff in O.S.No.886 of 1995 on the file of the Additional Sub Court, Salem, has filed the above Civil Revision Petition.

2.The plaintiff filed the suit in O.S.No.886 of 1995 for specific performance. The defendants filed their written statement and contested the suit. The trial Court, by the judgment and decree dated 14.12.2004,

dismissed the suit. Aggrieved over the same, the plaintiff preferred an appeal in A.S.No.52 of 2005 before the I Additional District Court, Salem. In the said appeal, the plaintiff took out an application in I.A.No.208 of 2006 under Order 6 Rule 17 of the Civil Procedure Code to amend the plaint with regard to the schedule of property. The said application was contested by the defendants. The Lower Appellate Court, by its order dated 23.06.2006, dismissed the application finding that the plaintiff has not given the entire details in the suit schedule and also in the proposed amendment application. In paragraph - 7 of the order passed by the Lower Appellate Court, the Appellate Court has considered all the aspects with regard to the extent and boundaries of the suit property and also the proposed amendment sought for by the plaintiff and rightly dismissed the application. That apart, though the plaintiff/petitioner had every opportunity to file an amendment application at the earliest point of time, he waited till the dismissal of the suit and filed the application under Order 6 Rule 17 only at the appellate stage, which cannot be entertained.

3.Since the Lower Appellate Court has dismissed the application, considering the case of both parties, I do not find any error or irregularity in the order passed by the Lower Appellate Court. The Civil Revision Petition is devoid of merits and the same is dismissed.

4.Since the Civil Revision Petition is dismissed, the LR petitions in M.P.Nos.1 to 3 of 2013 filed by the petitioner to bring on record the legal representatives of the deceased 1st respondent are closed and liberty is given to the petitioner to file appropriate application before the I Additional District Court, Salem in A.S.No.52 of 2005. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

va

To

1.The I Additional District Court, Salem

+1cc to M/S.Sarvabhauman Associates,Advocate SR.No. 22277

+1cc to Mr.R.Subramanian, Advocate SR.No. 22326

C.R.P. (NPD) .No.1454 of 2006

and M.P.Nos.1 to 3 of 2013

A.SK(03/04/2019)