

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2019

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

CRP(PD).No.1143 of 2011
and
MP.No.1 of 2011

1.Munusamy

2.Punniyakotti

...Petitioners

vs.

1.E.Annammal

2.Ponnammal

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 23.04.2010 passed in IA.No.423 of 2009 in OS.No.57 of 2004 on the file of the District Munsif cum Judicial Magistrate Court, Thirukazhukundram.

For Petitioners : Mr.K.Govi Ganesan

For Respondents : No appearance

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ORDER

The present Civil Revision Petition is filed by the second and third defendants in the suit OS.No.57 of 2004, on the file of the District Munsif cum Judicial Magistrate, Thirukazhukundram. The first respondent/plaintiff filed the above suit for partition of the suit properties into three equal shares and to allot one such share to her.

2. When the suit was posted for trial, the first respondent/plaintiff filed an application under Order VI Rule 17 of the Code of Civil Procedure praying to amend the plaint with regard to the survey number. The learned District Munsif cum Judicial Magistrate, Thirukazhukundram allowed the said application vide his orders dated 23.04.2010. Aggrieved over the same, the second and third defendants in the suit OS.No.57 of 2004 has filed the present Civil Revision Petition.

3. Mr.K.Govi Ganesan, learned counsel appearing for the revision petitioners would contend that in the sale dated 29.05.1942, the survey number is mentioned as 96/1 and that without correcting the survey number in the sale deed, the plaintiff cannot seek for an amendment in the suit.

4. No appearance for the respondents.

5. It is admitted that in the sale deed (Ex.A1), a different survey number is mentioned. However, it is for the plaintiff to prove all her contentions raised in the plaint and the orders passed by the learned District Munsif / Judicial Magistrate cannot be faulted with, especially, when the defendants are not prejudiced. The suit is also of the year 2004 and therefore, the learned District Munsif / Judicial Magistrate is directed to dispose of the suit OS.No.57 of 2004, within a period of two months from the date of receipt of a copy of this order. The learned District Munsif / Judicial Magistrate is also directed to give sufficient opportunity to the defendants to file additional written statement.

6. With the above directions, the Civil Miscellaneous Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is also dismissed.

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Index : Yes/No

R.HEMALATHA, J.

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To

The District Munsif cum
Judicial Magistrate Court,
Thirukazhukundram.



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