

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2019

CORAM :

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

C.R.P(PD)No.4390 of 2013

and

M.P.No.1 of 2013

1. Vridhambal Ammal
2. Gandhimathi Ammal
3. Dhanasekar

... Petitioners/Defendants 1 to 3

Vs.

1. Savithri Ammal
2. Pichaimuthu

... Respondents/4th Defendant

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 22.07.2013 made in I.A.No.568 of 2012 in O.S.No.115 of 2011 passed by the Principal District Judge, Villupuram.

For Petitioners : Mr.B.Baskaran

For R1 : Mr.N.Suresh

For R2 : No appearance

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ORDER

This Civil Revision Petition has been filed against the Order dated 22.07.2013 made in I.A.No.568 of 2012 in O.S.No.115 of 2011

passed by the Principal District Judge, Villupuram, against the amendment that the plaintiff to include certain measurement in the property and also to make the reference with regard to the sale deed said to have been take place on 24.11.1971.

2. The respondents denied the allegations and objected the plaint. The trial Court considering the fact, that it is only an amendment for including certain correct measurement with regard to the suit property and it will not to change the character of the suit, allowed the petition as against which the present Civil Revision Petition has been filed.

3. It is the main contention of the revision petitioner that the suit has been filed on Pauper Original Petition No.10 of 2009, the suit in O.S.No.115 of 2011, which has been filed by indigent person for partition and separate possession of petitioner's 1/6th share in the suit properties by metes and bounds by appointment of an Advocate commissioner. It is the contention of the learned counsel appearing for the revision petitioner, that the order of the trial Court is to be interfered.

4. Heard, the learned counsel appearing for the revision petitioner and the learned counsel appearing for the respondent and perused the entire records, available on record.

5. Originally, the suit has been filed for partition and separate possession what has sought to be amended is only the schedule of the property and also sale deed said to have been executed by the defendants.

6. It is to be noted that in a suit for partition of the properties the correct measurement have to be given if at all the amendment is made, with regard to schedule, the defendants can very well establish their case by placing proper evidence before the trial Court. They cannot oppose the amendment which is only with regard to correct extent and measurement in the suit property. Unless the amendment sought is completely prejudice other side such amendments have to be allowed. This Court does not find any illegality or infirmity in the order passed by the trial Court.

N.SATHISH KUMAR, J.

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7. Accordingly, the Civil Revision Petition is dismissed. The trial Court is directed to dispose of the suit within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is also closed.

18.02.2019

Index: Yes/No
Speaking/ Non-Speaking
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To

1. The Principal District Judge, Villupuram.
2. The Section Officer, VR Section, Madras High Court.

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