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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

CRP(MD) No.1098 of 2019

and

C.M.P. (MD) No.5981 of 2019

RM.Lakshmi (died)

1. RM.Vellaiyan

2. RM.Valliappan

3. V.Alagappan

... Petitioners/Respondents 2 to 4

Defendants 2 to 4

versus

1.Sivagami

2.Soundaram

...Respondents 1 & 2 /Petitioners/
Plaintiffs

3.V.Ramanathan

...3rdRespondent/5thRespondent/
5th Defendant

Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decreetal order dated 05.03.2019 made in I.A.No.1 of 2019 in O.S.No.16 of 2016 on the file of the Sub Court, Devakottai.

For Petitioners : Mr.B.Muruganandam

ORDER

The revision petitioners herein are defendants 2 to 4 in O.S.No.16 of 2016.

2. They filed this Civil Revision Petition seeking the relief to set aside the order dated 05.03.2019 passed in I.A.No.1 of 2019 in O.S.No.16 of 2016 by the learned Subordinate Judge, Devakottai.

3. Before the Sub Court, Devakottai, the respondents 1 and 2 filed a suit in O.S.No.16 of 2016 and seeking the relief of partition of 1/5th share in the suit A Schedule property. At the end of trial, the respondents 1 and 2 filed an application in I.A.No.1 of 2019 under Order VI Rule 17 C.P.C. to amend the prayer found in the plaint.

4. The learned trial Judge, after giving an opportunity to the petitioners herein, allowed the amendment application filed by



the respondents 1 and 2 herein and permitted them to amend the plaint as prayed for. Against the said order, the petitioners/defendants 2 to 4 are before this Court seeking the relief to set aside the findings arrived at by the trial Court in the said application.

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5. The learned counsel appearing for the petitioners submitted that the respondents 1 and 2 herein filed the amendment application after the completion of trial and further, they wanted to alter the share claimed by them in earlier.

6. On a perusal of the impugned order, it is seen that while at the time of passing of order, the learned Subordinate Judge, Devakottai, held that immediately after the death of the first defendant, i.e., on 16.06.2017, as soon as the petitioners got the knowledge of Will deed, they could have filed the application at the earliest point of time. So it cannot be concluded that the respondents 1 and 2 filed this application before the trial Court with the delay. More than that, the amendment sought for by the respondents 1 and 2 is only in respect of the allotment of shares, particularly, they wanted 9/24 shares instead of 1/5th share. Hence, the said amendment is in no way affect the merits of the case. Moreover, the amendment would not introduce a new cause of action on the side of the plaintiffs/respondents 1 and 2. Hence, I am of the considered opinion that the amendment would not cause any prejudice to the petitioners herein.

7. For the above mentioned reasons, this Civil Revision Petition is dismissed.

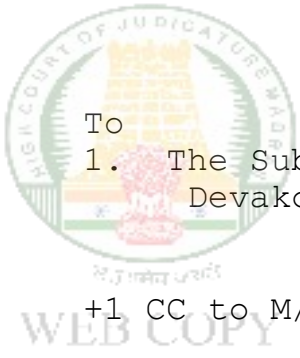
8. However, the learned counsel appearing for the petitioners prays for a direction to dispose of the suit in O.S.No.16 of 2016 in a time frame manner.

9. Since the suit in O.S.No.16 of 2016 has been filed for partition, I am of the considered opinion that it is appropriate to direct the trial Court to dispose of the suit in O.S.No.16 of 2016, within a time frame. Accordingly, the learned Subordinate Judge, Devakottai, is directed to dispose of the suit in O.S.No.16 of 2016, as early as possible, but, not later than six months from today, i.e. on or before 15.01.2020. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar(CS)



To
1. The Sub Judge,
Devakottai.

+1 CC to M/s.B.MURUGANANDAM, Advocate SR-74814.

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