

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2020

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

C.R.P. (PD) 142 of 2020
and
C.M.P. 794 of 2020

1. S.Ganesan
2. G.Sakunthala

... Petitioners

Versus

1. G.Karthik
2. R.Gopal
3. D.Ramesh
4. P.Gopalan
5. P.Krishnasamy
6. P.Natarajan
7. V.Sundarambal @ Sundari
8. S.Karthikkumar
9. S.Santhi

... Respondents

PRAYER : Civil Revision Petition is filed under Art. 227 of Constitution of India, praying to set aside the fair and final order in I.A. 4 of 2019 in O.S. 122 of 2019, on the file of Addl. District (Fast Track) Court, Mettur, dated 30.10.2019.

For Petitioners : Mr.S.Kaithamalaikumaran

ORDER

This Civil Revision Petition has been filed against the order allowing the amendment petition filed by the respondents 1 and 2.

2. The respondents 1 and 2 herein originally filed a suit for partition claiming half share in the suit schedule property, and also to set aside the registered partition deed dated 14.03.2002, 04.01.2019 and 18.01.2019. Now, pending suit, the plaintiff has filed an application to amend the pleadings, on the ground that, the written statement filed by the petitioners/defendants 1 and 2 admitting the registered partition deed dated 14.03.2002, and stating that the above registered partition deed has been cancelled through a compromise decree in O.S. 40 of 2018, dated 14.07.2018. Hence, the petitioners want to amend the prayer to set aside the compromise decree. That application came to be allowed by the court below. Challenging the same, the present Civil Revision Petition has been filed.

3. Mr.J.Printhivi, learned counsel appearing for petitioner would contend that, the plaintiffs only want to set aside the registered partition deed dated 14.03.2002. However, subsequently, the above registered partition deed has been set aside in a compromise decree passed in O.S. 40 of 2018. In the above circumstances, there is no necessity to once again set aside the compromise decree. That apart, now, plaintiffs want to amend the plaint by bringing so many facts, for which, no amendment is necessary. The petitioners can very well file reply statement to the above written statement. For that purpose, it is not necessary to file a petition to amend the pleadings.

4. I have heard the submissions made by learned counsel appearing for petitioner and perused the materials available on record carefully.

5. Admittedly, it is a pre-trial amendment. It is settled law that, the parties can file amendment petition to amend the plaint, and that amendment should be considered liberally. That apart, now, the plaintiffs want to amend the plaint to set aside a compromise decree passed in O.S. 40 of 2018, in which,

admittedly, the plaintiffs are not parties. After considering the entire materials, the Trial Court has rightly allowed the application holding that, whether the decree is obtained by fraudulently or it is a valid decree, are to be decided only during the trial, and at this stage, the amendment need not be denied. Therefore, I find no illegality or irregularity in the order passed by the court below, and I find no merit in this Civil Revision Petition. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

22.01.2020

Index:Yes/No
Internet:Yes
Speaking/Non-speaking order
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To

Addl. District Judge,
Mettur.

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V.BHARATHIDASAN,J.

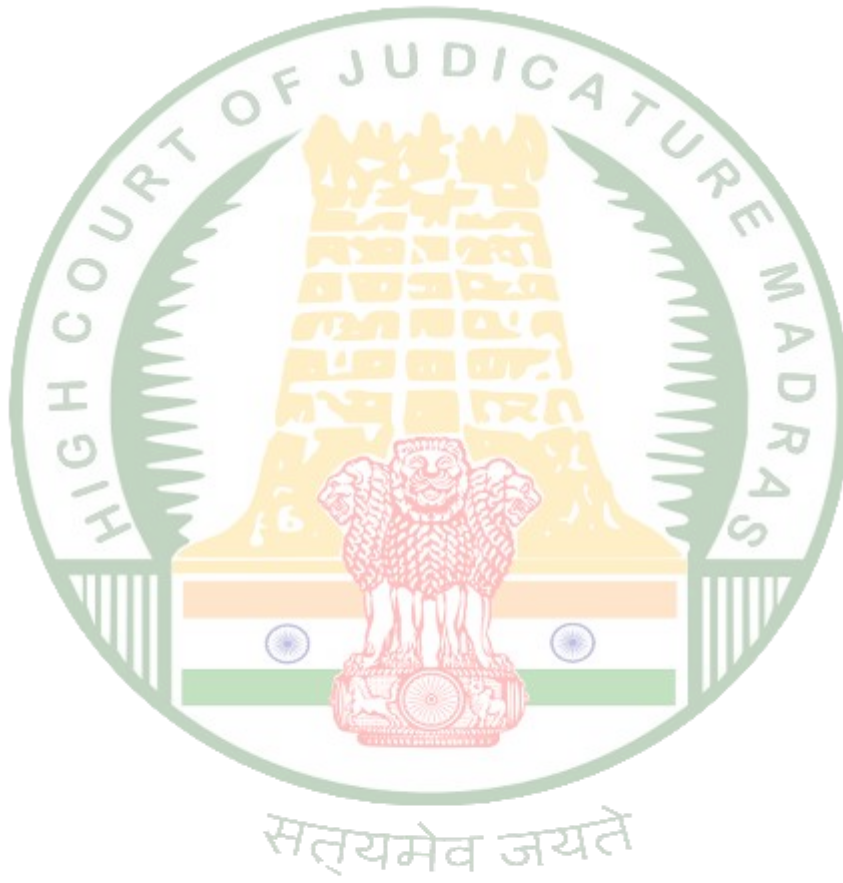
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