

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.03.2020

Coram

The Honourable Mr.Justice D.KRISHNAKUMAR

**C.R.P(PD)No.980 of 2020
and C.M.P.No.5325 of 2020**

1.Thangaraj

2.Kannammal

3.T.Palanisamy

...Petitioners

1.A.Periyasamy

Versus

2.P.Sangeetha

...Respondents

This Civil Revision Petition is filed under Article 227 of the Constitution of India praying to set aside the fair and final order dated 10.01.2020 in I.A.No.3 of 2019 in O.S.No.390 of 2016 on the file of I Additional District Munsif, Erode and allow the Civil Revision Petition.

For Petitioners

:

Mr.S.Kaithamalai Kumaran

ORDER

The present Civil Revision Petition has been filed challenging the order dated 10.01.2020 passed by the learned Additional District Munsif No.I, Erode in I.A.No.3 of 2019 in O.S.No.390 of 2016, in and by which, the learned Additional District Munsif has allowed the Interlocutory Application filed by the respondents herein.

2. The brief facts of the case are as follows:

The plaintiffs are the respondents and the defendants are the petitioners. The respondents/plaintiffs filed the suit O.S.No.390 of 2016 against the petitioners/defendants for the following reliefs:

- (i) restraining the defendants, their men, agents, etc., from in any way and in any manner either preventing or obstructing the plaintiffs in enjoying the suit properties by means of permanent injunction and
- (ii) directing the defendants to pay the costs of the suit to the plaintiffs.

3. While the suit O.S.No.390 of 2016 is pending on the file of the Additional District Munsif Court No.I, Erode, the respondents/plaintiffs have filed an Interlocutory Application in I.A.No.3 of 2019 against the petitioners/defendants for permitting the respondents/plaintiffs to amend the plaint and the said Application was allowed by the learned Additional District Munsif No.I, Erode on 10.01.2020. Aggrieved by the said order, the petitioners/defendants have filed the present Civil Revision Petition before this Court for the relief stated *supra*.

4. The learned counsel for the petitioners submitted that the relief sought for by the respondents/plaintiffs by way of amendment is clearly barred by limitation and changes the nature and character of the prayer sought for in the plaint. The learned Additional District Munsif No.I, Erode has allowed I.A.No.3 of 2019 by wrongly holding that the respondents/plaintiffs being the third parties of the suit are entitled to seek declaration regarding the validity by way of amendment. The impugned order is unsustainable in law and therefore, the same is liable to be set aside.

5. Heard the learned counsel for the petitioners and perused the materials available on record.

6. From a perusal of the impugned order, it is seen that the respondents/plaintiffs filed a suit for partition and separate possession on 03.11.2016 and the petitioners/defendants have filed yet another suit in O.S.No.411 of 2016 on the file of the Additional Subordinate Court No.I, Erode in collusion for partition and separate possession. The plaintiffs are not parties to the said suit. The defendants are playing fraud on the Court and obtained a Compromise decree on 28.11.2016 which is registered as Document No.120 of 2017 on the file of the Joint No.1, Sub-Registrar, Erode based on the settlement reported before Mega Lok Adalat held on 12.11.2016. Hence, the learned Additional District Munsif No.I, Erode has rightly allowed I.A.No.3 of 2019 filed by the respondents/plaintiffs.

7. Considering the above facts and circumstances of the case, this Court finds no infirmity in the order dated 10.01.2019 passed by the learned Additional District Munsif I, Erode in I.A.No.3 of 2019.

8. In the result, this Civil Revision Petition is dismissed and the order dated 10.01.2019 passed by the learned Additional District Munsif I, Erode in I.A.No.3 of 2019 is confirmed. No costs. Consequently, connected Miscellaneous Petition is closed.

11.03.2020

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Index : Yes/No

To

The Additional District Munsif No.I,
Erode.



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D.KRISHNAKUMAR, J.,

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