

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2020

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP(PD).No.2012 of 2014

and

M.P.No.1 of 2014

1.Rajkumar

2.Ramajayam

3.Pushpa

... Petitioners/
Defendants 3 to 5

Versus

1.Andal

...Respondent/
Plaintiff

2.Adhilakshmi

3.Rajeswari @ Poongodi

4.Saraswathi

...Respondents 2-4/
Defendants 1,2, 6

PRAYER: This Civil Revision Petition has been filed under Article 227 of the Constitution of India against the order made in I.A.No.739 of 2013 in O.S.No.246 of 2011, on the file of the learned Additional District Munsif, Cuddalore, dated 01.03.2014.

For Petitioners : Mr.Dr.Ravichander
For Respondents: No appearance

ORDER

This Civil Revision Petition has been filed against the order passed by the learned Additional District Munsif, Cuddalore, in

I.A.No.739 of 2013 in O.S.No.246 of 2011, dated 01.03.2014.

2 Defendants 3 to 5 in O.S.No.246 of 2011 are the revision petitioners herein.

3 The brief facts of the case are as follows:

(i) The first respondent herein has filed a suit in O.S.No.246 of 2011, before the learned Additional District Munsif, Cuddalore, seeking partition of the suit property and allotment of 1/7th share in the suit property with specific building that there was an earlier partition in the suit and she was excluded from the partition. In the said suit, the defendants had filed written statement admitting the right of the plaintiff.

(ii) During trial, on the side of the plaintiff, evidence was let in and documents were marked and the plaintiff's side evidence was closed on 16.08.2013 and the defendant entered into witness box and examined as DW1 and for cross examination of DW1, the case was posted to 23.08.2013. After several adjournments on 02.12.2013, an application in I.A.No.739 of 2013 before the learned Additional District Munsif, Cuddalore, by the plaintiff/first respondent herein, seeking amendment of certain pleadings in the plaint and also in the prayer, she has sought for 1/6th share and the same was allowed. As against the same, revision petitioners have preferred

this Civil Revision Petition.

4 Heard the learned counsel appearing for the petitioner and perused the materials placed on record.

5 After going through the records and also taking note of the stage of the Trial viz., during the cross examination of DW1, the Trial Court ought not to have exercised its discretionary power in allowing the amendment petition, especially, after settlement of the issues, both the parties have let in evidence, based upon the original plaint and hence, as the present application and the averments thereon altering the basic structure of the plaint, ought not to have been allowed. It is also appearing from the records that respondents were served and their names have also been printed in the cause list, but none appeared today.

6 In view of the above, this Civil Revision Petition stands allowed and the order passed by the learned Additional District Munsif, Cuddalore in I.A.No.739 of 2013 in O.S.No.246 of 2011, dated 01.03.2014 is set aside. No costs. Consequently, connected Miscellaneous Petition is closed.

08.01.2020

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Speaking Order:Yes/No

RMT.TEEKAA RAMAN., J.

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To
The Additional District Munsif, Cuddalore.



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