

A.No.9232 of 2019
in C.S.No.416 of 2018

SENTHILKUMAR RAMAMOORTHY, J.

This application is filed for amendment of the plaint as per details set out in the schedule to the judge's summons.

2. I heard the learned counsel for the applicant/plaintiff, the learned counsel for the respondents 1 to 3 and the learned counsel for the respondents 4 and 5.

3. The learned counsel for the applicant submitted that the suit is filed for partition and that it was filed with information available as on the date of filing of the suit.

4. He submits that in view of the non availability of information, the description of item Nos.5 and 6 of the suit properties mentioned in the plaint was not complete, because the applicant did not have the original title deeds relating to the said property. Such details were, subsequently, collected from the written statement filed in the suit. In addition, he submits that the 4th and 5th defendants disclosed in the written statement that two settlement deeds, both dated 13.04.2018, were executed by the first defendant in favour of the 5th defendant.

5. Consequently, it is submitted that it became necessary to file the

present application, so as to amend the plaint and include the prayers for the relief of declaration in respect of the said settlement deeds.

6. The learned counsel for the respondents 1 to 3 submits that he has no objection to this application being allowed. On the other hand, the learned counsel for the 4th and 5th respondents submits that he has no objection to the amendments in respect of the description of the property. Whereas, he has strong objection with regard to the request for inclusion of the relief of declaration in respect of the two settlement deeds in favour of the 5th defendant.

7. In effect, the submission of the learned counsel for the 4th and 5th respondents is that such an amendment would alter the nature and character of the suit.

8. I considered the submissions of the learned counsel for the respective parties and examined the affidavits, counters and the relevant documents.

9. Upon such consideration, I find that the amendments in respect of the description of assets cannot be objected to at all and, therefore, there is no difficulty in permitting such amendment.

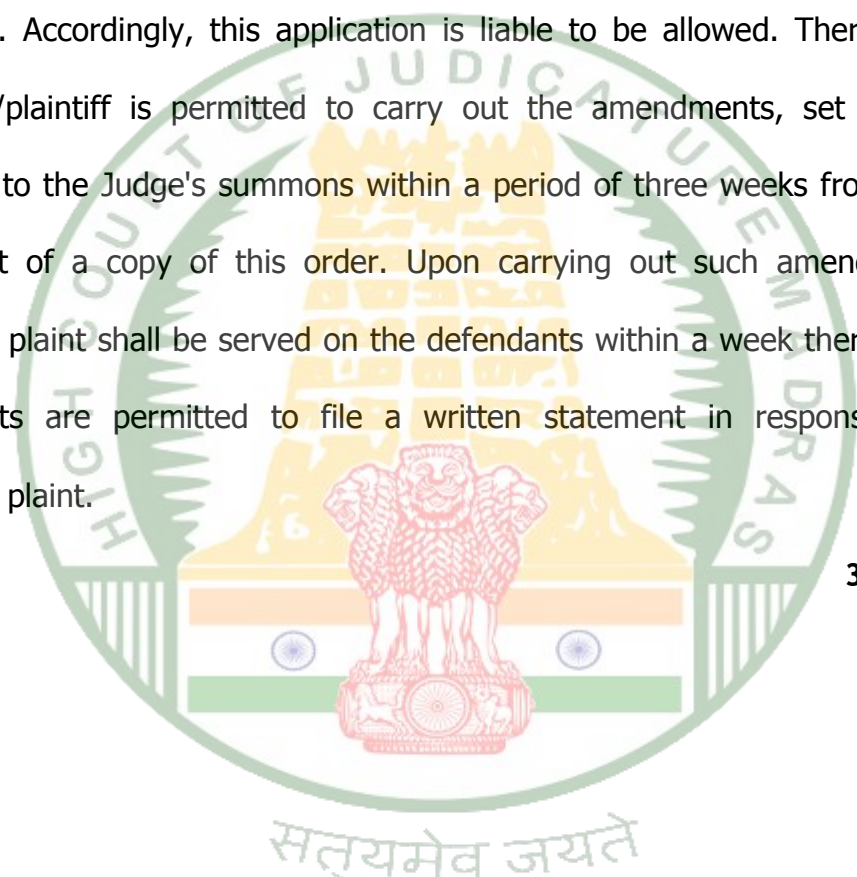
10. As regards the declaration relief, the learned counsel for the applicant contends that the settlement deeds were disclosed to the applicant only in the written statement of the 4th and 5th defendants. Therefore, he submitted that this amendment is necessary. This suit is admittedly at the pre-trial stage and I

am of the view that the amendment of the plaint by including the relief of declaration in respect of the two settlement deeds dated 13.04.2018 would not alter the nature and character of the suit. In addition, it would also avoid multiplicity of proceedings.

11. Accordingly, this application is liable to be allowed. Therefore , the applicant/plaintiff is permitted to carry out the amendments, set out in the schedule to the Judge's summons within a period of three weeks from the date of receipt of a copy of this order. Upon carrying out such amendment, the amended plaint shall be served on the defendants within a week thereafter. The defendants are permitted to file a written statement in response to such amended plaint.

31.01.2020

mpa



WEB COPY

SENTHILKUMAR RAMAMOORTHY, J.

mpa

A.No.9232 of 2019
in C.S.No.416 of 2018



A.No.9232 of 2019
in C.S.No.416 of 2018

31.01.2020

WEB COPY