

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.R.P (PD).No.2300 of 2016

and

Cmp.No.11900 of 2016

1.P.Chidambaram,
2.Marimuthu,
3.C.Selvaraj,
4.C.Annadurai,
5.Cheran

.... Petitioners

Versus

1.Rajalingam,
2.Amaravathy,
3.Dharmalingam,
4.Ganaprakash,
5.Prakash,
6.Parameshwarran,
7.Kadiravan,
8.Suresh

.... Respondents

Civil Revision Petition filed under Article 227 of The Constitution of India, to set aside the fair and decretal orders dated 11.01.2016, made in I.A.No.1182 of 2015 in O.S.No.1021 of 2011, on the file of the Principal District Munsif Court, Salem and allow the CRP.

For Petitioners : Mr.C.Sureshkumar
For Respondents : No Appearance
(Notice served)

ORDER

This Civil Revision Petition is directed as against the fair and decretal order dated 11.01.2016, made in I.A.No.1182 of 2015 in O.S.No.1021 of 2011, on the file of the Principal District Munsif Court, Salem, thereby, dismissing the petition seeking amendment of the prayer in the plaint.

2.The petitioners are the plaintiffs and the respondents are the defendants. The petitioners filed the suit for declaration for declaring that they are the owners of the suit property and also for injunction is in respect of the suit property. On receipt of summons, the respondents filed written statement stating that one Perumal died leaving behind his legal heirs and the legal heirs executed the power of attorney,

therefore, majority of the property in the plaint schedule were sold out to the third parties by way of a registered sale deed. Therefore, the petitioners have come forward with the petition to amend the prayer. The Court below dismissed the petition only on the ground that the written statement was filed on 28.03.2012 and the present petition has been filed only on 28.07.2015 i.e., after a period of three years.

3.Though notice was served to the respondents and their names are also printed in the cause list, no one appeared on behalf of them before this Court in person or through pleader.

4.Though the petitioners filed the petition for amendment within a period of three years from the date of knowledge, they have already filed the suit for declaration in respect of the very same suit property. That apart, the issue of limitation is a mixed question of facts and law and it can be considered only at trial, by letting in evidence. It would also avoid multiplicity of the legal proceedings between the parties.

5.In view of the above, the order passed by the Trial Court is set aside and the Civil Revision Petition is allowed. The respondents are permitted to file their additional written statement, after amendment is made in the plaint and thereafter, the Trial Court shall dispose of the suit, within a period of six weeks from the date of filing of the additional written statement by the defendants. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

klt

To

The Principal District Munsif Court,
Salem

+1cc to Mr.C.Prabakaran,Advocate, SR.NO. 19013

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PM(CO)
KKN 26.04.2021