



C.R.P.(PD).No.2607 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(PD).No.2607 of 2021

and

C.M.P.No.19369 of 2021

1.Amirthavalli

2.Maniasasu

.. Petitioners

Vs.

1.Karuppathal

2.Selvi

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 01.10.2021 in I.A.No.854 of 2018 in O.S.No.581 of 2018 on the file of the Principal District Munsif Court at Coimbatore and consequently dismiss the I.A.No.854 of 2018 in O.S.No.581 of 2018.

For Petitioners : Mr.T.Saikrishnan



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ORDER

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The order challenged in this Revision is one allowing the application for amendment of plaint made in I.A.No.854 of 2018 in O.S.No.581 of 2018.

2. The suit was filed by the respondents herein seeking a permanent injunction restraining the defendants from interfering with the peaceful and possession and enjoyment of the suit property by the plaintiffs. The defendants filed written statement contending that the 2nd defendant had executed a gift settlement deed in favour of the 1st defendant on 05.02.2010 in Doc.No.613/2010 for an extent of 2471 sq.ft. The said extent of land is in possession and enjoyment of the 2nd defendant for a very long time.

3. Upon disclosure of such execution of settlement deed, the plaintiffs filed an application in August 2018 seeking to amend the plaint to include the relief of declaration that the settlement deed is not valid and binding on them. They have also sought to incorporate certain pleadings regarding the execution of the settlement deed by the 2nd defendant in favour of the 1st



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defendant. This application was resisted contending that the same is not maintainable, as the same would alter the very nature of the suit and the settlement deed which is executed in 2010 cannot be challenged in 2018.

4. The trial Court, upon consideration of the facts and circumstances of case, found that the amendment should be allowed in order to have a complete adjudication of the dispute. The learned trial Judge found that being a pre-trial amendment, the Court must be liberal in allowing such amendment.

5. All that is now sought to be done is to amend the plaint to include the relief of declaration that the settlement deed of the year 2010 is not valid and binding on them. The plaintiffs being third parties to the settlement deed are not required to seek to set aside the document itself, therefore, the plaintiffs pray for a declaration that the document is invalid and illegal and not binding on them. Such prayer is not un-known to law, it is open to the defendants to resist the same by filing additional written statement raising all their contentions.



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R.SUBRAMANIAN, J.

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6. I therefore do not see any merits in this Revision. The Revision fails and it is accordingly **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

30.11.2021

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Index : No

Internet : Yes

Speaking order

To

The Principal District Munsif, Coimbatore.

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