



C.R.P.(PD).No.2282 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2021

CORAM:

THE HONOURABLE MRS.JUSTICE **S.KANNAMMAL**

C.R.P.(PD).No.2282 of 2017

and

C.M.P.No.10754 of 2017

[Video Conferencing]

Mrs.Govindhammal (died)

Mrs.Alamelu (died)

1.Mrs.Danalakshmi

2.N.Raju

3.N.Mohan

4.Pushpa

5.N.Krishnamoorthi

6.V.Murugesan

... Petitioners

vs.

Mr.S.Arumugan

... Respondent

Prayer:- This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 04.04.2014 made in I.A.No.229 of 2017 in O.S.No.457 of 2010 on the file of the District Munsif Court, Gobichettipalayam.

For Petitioners : Mr.D.R.Arunkumar

For Respondent : Mr.M.V.Krishnan



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ORDER

This Civil Revision Petition has been filed by the petitioner against the order passed in I.A.No.229 of 2017 in O.S.No.457 of 2010, dated 04.04.2014, by the District Munsif Judge, Gobichettipalayam.

2.The facts of the case, in a nutshell, are that the petitioners herein are the plaintiffs and the respondent herein is the defendant in the suit in O.S.No.457 of 2010. The suit was filed for partition of the suit property into four equal shares by metes and bounds and allot three contiguous shares to the plaintiffs and also to deliver separate possession and for costs. The petitioners herein have filed the above application in I.A.No.229 of 2017 in O.S.No.457 of 2010 to permit them to amend the schedule of property mentioned in the plaint. Since the said application was dismissed by the impugned order, dated 25.04.2017, this Civil Revision Petition has been filed by the petitioners.

3.Heard the learned counsel for the petitioner and the respondents and perused the materials placed on record.

4.This Civil Revision Petition has been filed by the petitioners aggrieved against the dismissal order passed in I.A.No.229 of 2017 in



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O.S.No.457 of 2010. I.A.No.229 of 2017, which petition has been filed by the petitioners for including the property which was omitted at the time of filing of the original suit. The Trial Court has dismissed the same as the petition in I.A.No.229 of 2017 was filed belatedly. Admittedly, the property which is to be included is on the ground as admitted by the respondent herein. The Trial Court ought to have allowed the amendment petition for a proper adjudication in a suit for partition. But, the petitioners herein has filed this petition belatedly.

5.Considering the submissions made on either side and in order to give an opportunity to the petitioners, this Court is inclined to allow this petition subject to the payment of cost of Rs.5,000/- [Rupees Five Thousand Only] to the respondent herein. The matter is remitted back to the Trial Court and the Trial Court is directed to proceed with the trial after giving opportunity to both the parties and decide the case on merits.

6.With the above direction, this Civil Revision Petition is disposed of. Consequently, the connected miscellaneous petition is closed.

14.12.2021

ssi



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S.KANNAMMAL,J

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To:

- 1.The District Munsif Judge,
Gobichettipalayam.
- 2.The Section Officer,
V.R. Section,
High Court of Madras.

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