

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(PD) No.723 of 2017
and C.M.P.No.3624 of 2017

P.Ekambaram

... Petitioner

Vs.

1. P.Manickam
P.Deenadayalan (died)
2. P.Suguna

3. The Joint Engineer,
Tamil Nadu Electricity Board,
Pallur West,
Thirumalpur Post,
Arakkonam Taluk,
Vellore District.

4. D.Rajamumari
5. Vijayan
6. D.Sangeetha

... Respondents

Prayer :- Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the order dated 29.11.2016 made in I.A.No.444 of 2015 in O.S.No.115 of 2015 on the file of the learned Sub Court, Arakkonam.

For Petitioner : Mr.N.Manokaran
For Respondents
For R1 & R2 : No appearance
For R3 : Mr.V.Viswanathan
For R4 to R6 : Ms.Sridevi
For Mr.A.Saravanan

ORDER

This Civil Revision Petition has been filed as against the fair and decreetal order dated 29.11.2016 passed by the learned Subordinate Judge, Arakkonam, in I.A.No.444 of 2015 in O.S.No.115 of 2015, thereby dismissing the petition seeking for amendment of plaint.

2. The petitioner is the plaintiff and the respondents are the defendants. The petitioner filed suit in O.S.No.115 of 2015 for partition. While pending the suit, the petitioner filed petition in I.A.No.444 of 2015 to include some of the properties, which were left out while filing the suit for partition. The respondents filed counter stating that the properties which were sought to be included for partition are not ancestral properties of Mr.Pungavanam and it is self acquired properties of the said person. The Court below recorded the very same reason and dismissed the petition.

3. It is needless to say that whether the property which is sought

to be included in the suit for partition is an ancestral or self acquired property and the same has to be decided only during the trial by let in evidence. It cannot be decided in the preliminary stage that too in the petition to include the property. Therefore the order passed by the Court below is perverse and liable to be set aside.

4. Accordingly, the order dated 29.11.2016 passed by the learned Subordinate Judge, Arakkonam, in I.A.No.444 of 2015 in O.S.No.115 of 2015 is hereby set aside. The trial Court is directed to dispose the suit within a period of nine months from the date of receipt of copy of this Order.

5. With the above directions, the Civil Revision Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

11.03.2021

Index : Yes/No
Internet : Yes/No
Speaking order/Non-speaking order
rts

G.K.ILANTHIRAIYAN, J.

rts

To

1. The Subordinate Judge,
Arakkonam.
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.



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