



WEB COPY



CRP(PD)No.451/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2022

CORAM:

THE HON'BLE Mr. JUSTICE N.SESHASAYEE

CRP(PD)No.451 of 2022
& CMP.No.2389 of 2022

1.Mrs.B.Charumathy
2.Mrs.B.Jayalakshmi

... Petitioners

Versus

1.S.Jayalakshmi
2.S.Mahalakshmi
3.S.Vijayalakshmi

... Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 10.11.2021 passed in I.A.No.2 of 2020 in O.S.No.9143 of 2019 on the file of the IV Additional City Civil Court, Chennai.

For Petitioners : R.Lakshmi Narayanan

ORDER

This Revision is preferred against the order of IV Additional City Civil Court, Chennai of I.A.No.2 of 2020 in O.S.No. 9143 of 2019.



2. There is an interstate dispute between the siblings, in which the plaintiffs have come out with an Application in I.A.No.2 of 20202 wherein, they *inter alia* seek an amendment to the plaint for including the schedule of properties, which is the bone of contention between the parties, which according to the plaintiffs was omitted in the plaint. Vide the impugned order dated 10.11.2021, this was allowed by the IV Additional City Civil Court, Chennai. The Revision is directed by the aggrieved defendants against the said order

3. The learned counsel for the Revision Petitioners made a valiant effort to convince this Court as to how the defendants were prejudiced by the plaintiffs seeking belated amendment to the plaint. He explained that there is a second appeal pending between the parties and in the meantime, the plaintiffs have sought amendment to the plaint for including the schedule of property to the plaint, long after the filing of the written statement and in fact, after the filing of the draft issues.

4. This Court while understands certain inconveniences expressed by the learned counsel for the revision petitioners/defendants, still, it is essential in



CRP(PD)No.451/2022

the rem of convenience and not in the rem of any damage to any of the rights of the defendants.

5.The plaint describes the dispute between the parties in detail but, there is apparently an error on the part of the plaintiffs/respondents to include the schedule of property and normally the Registry would have taken note of it and alerted the plaintiffs. The case has travelled a few orders but, the trial has not yet commenced. A vested right to litigate cannot be denied due to procedural technicalities. More so, when procedural aspect does not affect any substantial right of defence of the defendants.

6.Therefore, this Court does not find any merit in the Civil Revision Petition and accordingly, the same is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

28.02.2022

Index : Yes/No
Speaking Order/Non Speaking Order
Tsg/dk



WEB COPY



CRP(PD)No.451/2022

N.SESHASAYEE, J.,

Tsg/dk

To

The IV Additional City Civil Court,
Chennai.

CRP.No.451 of 2022

28.02.2022