



WEB COPY

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2022

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P. (MD) No.183 of 2022

and

C.M.P. (MD) No.808 of 2022

Muthusamy

...Petitioner/R-3/D-3

Vs.

1.Kathirvel

2.Alagiriraj

3.Alagirisamy

4.Duraisamy @ Alagarsamy

5.Nagarajan

...R-1 & R-2/Petitioners/Plaintiffs

...R-3 & R-4/R-1 & 2/D-1 & 2

...R-5/R-4/D-4

PRAYER: Civil Revision Petition under Article 227 of Constitution of India, to allow this Civil Revision Petition by setting aside the Fair order and Decreetal Order made in I.A.No.1 of 2021 in O.S.No.214 of 2009 dated 22.10.2021 on the file of the District Munsif Court, Periyakulam.

For Petitioner :Mr.G.Prabhu Rajadurai for

Mr.M.Thirunavukarasu

For R-1 & R-2 :Mr.M.Marudupandian

For R-3 to R-5 :No Appearance

ORDER

This Civil Revision Petition has been filed to set aside the Order, dated 22.10.2021 in I.A.No.1 of 2021 in O.S.No.214 of 2009, passed by the learned District Munsif, Periyakulam.

2.The parties are referred to as per the rank mentioned before the Court below.

3.The plaintiffs have filed a petition in I.A.No.1 of 2021 in O.S.No.214 of 2009 on the file of the learned District Munsif, Periyakulam, to amend the plaint under Order 6 Rule 17 of Civil Procedure Code. The said petition was allowed on condition that the plaintiffs were directed to pay a sum of Rs.3,000/-to the defendants. Against the said order, dated 22.10.2021, the petitioner is before this Court.

<https://hcservices.courts.gov.in/hcservices/> either side and perused the material documents



available on record.

5.The plaintiffs have filed a petition in I.A.No.1 of 2021 in O.S. No.214 of 2009 to amend the plaint for declaration relief. Originally, the suit was filed for permanent injunction. Already a partition suit was filed by the 3rd defendant in O.S.No.202 of 2009 and in the said suit, he denied exclusive rights of the plaintiffs and written statement was filed in the year 2010. He denied the rights of the plaintiffs and also title to the property. Hence, the plaintiffs have filed amendment petition within a period of three years from the denial of title. But, the petition in I.A.No.1 of 2021 was filed in the year 2021. So, the relief for amendment is barred by limitation. The trial Court ought not to have allowed the petition with Costs.

6.In view of the foregoing reasons, this Court is inclined to allow this Civil Revision Petition.

7.Accordingly, this Civil Revision Petition is allowed by setting aside the Order, dated 22.10.2021 in I.A.No.1 of 2021 in O.S.No.214 of 2009, passed by the learned District Munsif, Periyakulam. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

The District Munsif , Periyakulam.

+1 CC to M/s.M.THIRUNAVUKKARASU, Advocate (SR-11380[F] dated 11/03/2022)

C.R.P. (MD) No.183 of 2022
10.03.2022

SMV(CO)

KB(05.04.2022) 2P 3C