



C.R.P.No.2853 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.2853 of 2015
and M.P.No.1 of 2015

Jayanthi

.. Petitioner

VS

1.Jeyaseelan
2.Valarmathi
3.Dhanalakshmi @ Dhanam
4.Rani
5.Nataraja
6.Rajkumar
7.Duraisamy
8.K.Thirunavukkarasu
9.Jeyaraman
10.Meenakshi
Illancheliyan (Died)
11.Engineer R.P.Subramanian
12.Saravanan
13.Dinesh Karthick
14.Minor Neevatha Priyadharsini
15.Manimegalai

.. Respondents

Petition filed under Article 227 of the Constitution of India to set aside fair and decreetal order of the Principal District Judge Court at Perambalur dated 19.02.2015 in I.A.No.109 of 2014 in O.S.No.3 of 2007.

For Petitioner : Mr.T.Deeraj
For Respondents : Mr.Dinesh
for R1, R5 to R11 and R15



WEB COPY



C.R.P.No.2853 of 2015

ORDER

The plaintiff is the petitioner. The suit is one for partition. The suit was presented on 21.12.2006 and summons were issued on 01.02.2007.

2. Pending the suit, certain properties which were purchased by the mother of the plaintiff were alienated on 22.11.2012. The plaintiff was not a party to the sale. On the date on which plaint was presented, Rukkumani Ammal, the mother of the plaintiff and defendant nos. 1 to 3 was alive.

3. In a suit for partition, all available properties are to be included in order to prevent any plea of a partial partition. The Courts have to be liberal when it comes to allowing of amendment applications so that it avoids multiplicity of proceedings. The learned Judge has dismissed the application on the ground that the suit is barred by limitation. In a suit for partition, cause of action arises day-to-day and therefore, it is just and necessary that the amendment application ought to have been allowed.



C.R.P.No.2853 of 2015

4. The proposed amendment does not change the cause of action nor the frame of the suit. No prejudice would be caused to the defendants if the amendment is allowed. It is always open to them to file a detailed written statement insofar as the new pleas that have been included in the suit.

5. In view of above, this civil revision petition is allowed. The order passed in I.A.No.109 of 2014 in O.S.No.3 of 2007 dated 19.02.2005 is set aside. The plaintiff is granted leave to amend the plaint. On such amendment, four weeks' time shall be granted to the defendants to file written statement to the amended pleas. The suit, being of the year 2007, all endeavours must be made to dispose of the suit at the earliest. No costs. Connected miscellaneous petition is closed.

13.07.2023

Index:Yes/No
Neutral Citation:Yes/No
ssm

To

The Principal District Judge Court
Perambalur.



WEB COPY



C.R.P.No.2853 of 2015

V. LAKSHMINARAYANAN,J.

ssm

C.R.P.No.2853 of 2015

13.07.2023