



A.No.1916 of 2023 in

C.S.No.930 of 2016

R.N.MANJULA,J.

The applicants are the plaintiffs. This application has been filed to amend the plaint by including a new paragraph namely “8A after paragraph 8 and before the paragraph 9 of the plaint.

2. The learned counsel for the applicants submitted that the applicants / plaintiffs came to know about the compromise decree obtained by the defendants in O.S.No.5478 of 2016 which is filed for partition on the file of XVII Additional City Civil Court, Chennai; in the said suit, the plaintiffs were not added as parties, despite their interest is also involved; since the plaintiffs are not the parties to the said suit, that will not bind their interest; in the said suit, the defendants who are the plaintiffs had undervalued the suit property for Rs.24,00,000/- which is far below than the actual market value existed at the relevant point of time; the plaintiffs' right in the suit property should not get affected.

3. The learned counsel for the respondents / defendants submitted that the plaintiffs are well aware of the earlier proceedings in O.S.No.5478 of 2016 and hence, they cannot say now that the above judgment is null and void; the plaintiffs ought to have claimed the relief of declaration that the judgment and decree in O.S.No.5478 of 2016 dated 02.12.2016 is null and void; since the plaintiffs are not able to



WEB COPY

claim such relief on the point of limitation, the plaintiffs have come with this kind of application; hence, this application should be dismissed.

4. Admittedly, in the suit filed by the defendants in O.S.No.5478 of 2016, the applicants / plaintiffs are not parties and that is not denied by the respondents / defendants also. Though it is correct on the part of the respondents to state that the rightful remedy open to the plaintiffs is by seeking the relief of declaration that the settlement decree passed in O.S.No.5478 of 2016 is null and void, it is equally right on the part of the plaintiffs to state that the decree will not bind their interest. Since it is claimed by the applicants / plaintiffs that they came to know about the decree involved in O.S.No.5478 of 2016 from the written statement filed by the defendants, the plaintiffs have intended to amend their pleadings to the effect that in view of the said decree, their share in the suit property would not get affected. Hence, in the interest of justice, this amendment application has to be allowed.

5. In the result, this application is allowed. The respondents are at liberty to raise whatever contentions they had raised in the counter today, by availing an opportunity to file additional written statement after the amendment is carried out.

19.06.2023

gsk

A.No.1916 of 2023 in

C.S.No.930 of 2016