



WEB COPY



CRP No.2247 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2023

CORAM

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

CRP.No.2247 of 2019
and CMP.No.14591 of 2019

1.Dharmalingam
2.Perumal
3.Suganthi

..Petitioners

Vs.

1.Mariyayee
2.Baggiam
3.Sellammal

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair and decreetal order of the Principal Subordinate Judge, Namakkal, dated 26.02.2019 made in I.A.No.72 of 2018 in A.S.No.65 of 2017.

For Petitioners : Mr.I.Abrar Mohamed Abdullah

For Respondents

For R1 to 3 : No appearance

ORDER

The civil revision petition has been filed as against the fair and decreetal order dated 26.02.2017 passed in I.A.No.72 of 2018 in A.S.No.65 of 2017 on



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the file of the Principal Subordinate Judge, Namakkal, thereby dismissing the petition seeking amendment in the plaint.

2. The petitioners are the plaintiffs and the respondents are the defendants in the suit. The petitioners filed a suit for declaration and injunction in respect of the suit property. The suit was dismissed and aggrieved by the same the petitioner preferred an appeal in A.S.No.65 of 2017. Pending the appeal suit, the petitioners filed an application under Order 6 Rule 17 r/w Section 151 of CPC to amend the plaint on the ground that a small detail was not stated in the plaint. The said omission is failure to include the details of the father of the petitioners herein namely his year of death. The said mistake was out of ignorance.

3. On perusal of records revealed that the amendment sought for by the petitioners is to include that the suit property belonging to their father and his death was in the year 1949. The respondents claimed right over the suit property as the legal heirs of the daughters of their father namely Perumal Kangani. There is also dispute regarding the wives and the legal heirs of said Perumal Kangani. The Trial court dismissed the suit on the ground that the petitioners failed to prove that their father Ponnambalam alone is the legal heir



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of said Perumal Gangani. Now, in the appeal suit, the petitioner filed a petition

to amend the plaint with regard to date of death of said Perumal Gangani.

Therefore, it would cause prejudice to the respondent and as such, the first Appellate Court rightly dismissed the said application and this Court finds no infirmity or illegality in the orders passed by the Court below.

4. Accordingly, the civil revision petition stands dismissed. The First Appellate Court is directed to dispose of the appeal suit within a period of twelve weeks from the date of receipt of a copy of this order, if not already disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

11.01.2023

Speaking/Non-speaking order

Index : Yes/No

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To

The Principal Subordinate Judge,
Namakkal.



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