



C.R.P.No.4478 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2023

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.4478 of 2023
and
C.M.P.No.26952 of 2023

Padma
W/o.Venkatachalam

... Petitioner

Versus

1. S.Palanivel
S/o.Sengoda Gounder
2. T.Santhi
W/o.Thiyagarajan

... Respondents

PRAYER :

Civil Revision Petition filed Under Article 227 of the Constitution of India, praying to set aside the order dated 25.08.2023 made in I.A.No.1 of 2023 in O.S.No.16 of 2022 on the file of the II Additional District Judge, Salem.

For Petitioner : Mr.A.V.Arun

For Respondents : Mr.K.Selvaraj



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ORDER

This petition has been preferred to set aside the order dated 25.08.2023 made in I.A.No.1 of 2023 in O.S.No.16 of 2022 on the file of the II Additional District Judge, Salem, dismissing the application filed by the petitioner to amend the plaint and include the prayer in respect of the Partition Deed dated 21.03.2012, which was registered as Document No.1432 of 2012 as null and void.

2. The respondents are none other than the siblings of the petitioner herein. The suit was originally filed by the petitioner herein seeking to declare the Settlement Deed dated 24.02.2012 in favour of the petitioner and respondents as null and void, before the Court of the District Munsif, Salem and numbered as O.S.No.1162 of 2012 and renumbered as O.S.No.16 of 2022.

3. The learned counsel for the petitioner submitted that during the course of trial, it came to light that the property of the petitioner's father was



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subjected to partition by deed dated 21.03.2012 and hence, the petitioner has filed the aforementioned application in I.A.No.1 of 2023 in O.S.No.16 of 2022 on the file of the II Additional District Judge, Salem, but the learned trial Judge has erroneously dismissed the application. Aggrieved over the same, the petitioner is before this Court.

4. The learned counsel for the respondents submitted that the said application was strongly opposed by the respondents/defendants stating that in the fag end of the trial, after a lapse of more than 10 years from the filing of the present suit, the petitioner filed this application, which is not maintainable and this application is filed only with an intention to prolong the case. The contention of the respondents/defendants is that after completion of the plaintiff's side evidence, the petitioner cannot file such amendment petition, that too, after a lapse of 11 years and hence, the trial Court has rightly dismissed the application holding that no proper reason was assigned for filing the amendment petition.



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5. The learned counsel for the petitioner submitted that when O.S.No.16 of 2022 was pending, the first respondent has filed another suit in O.S.No.322 of 2016 against the petitioner and second respondent seeking for partition and separate possession and consequential relief of permanent injunction.

6. Heard the learned counsel for the petitioner and learned counsel for the respondents.

7. Admittedly, both the suits referred above are ripe for trial. At this stage, the petitioner cannot file the application seeking to amend the plaint. According to the respondents, already partition deed was acted upon and therefore, the petitioner has no right to seek for such amendment. After completion of plaintiff's evidence, the plaintiff cannot now come forward to file such an amendment petition by improving the plaint. As rightly contended by the learned counsel for the respondents/defendants, after completion of plaintiff's side evidence, filing of such amendment petition is



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impermissible. Therefore, this Court finds no merits in this civil revision petition and the order dated 25.08.2023 passed in I.A.No.1 of 2023 in O.S.No.16 of 2022 is hereby confirmed.

8. Accordingly, this Civil Revision Petition is dismissed. The petitioner is directed to co-operate with the proceedings before the trial Court. The trial Court is directed to complete the trial within a period of three months from the date of receipt of a copy of this order. However, liberty is granted to file additional written statement, if any. Liberty is also granted to the respondents/defendants to raise limitation issue and the same can be decided by the trial Court. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

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Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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T.V.THAMILSELVI, J.

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To

II Additional District Judge,
Salem.

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