



C.R.P(MD)No.398 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.02.2023**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.398 of 2023

and

C.M.P(MD)No.1948 of 2023

K.Sirajudhin

... Petitioner/Petitioner/
Plaintiff

Vs.

1.Devaki

2.Govindaraj Premkumar

3.Rajmumar

4.M.Shanmugasundari

5.R.Lakshmanan

6.G.Ramalakshmi

... Respondents/Respondents/
Defendants

PRAYER : Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed in I.A.No.3 of 2022 in O.S.No.139 of 2016 dated 22.11.2022 on the file of Principal Sub court, Tirunelveli and allow the above Civil Revision Petition.



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For Petitioner : Mr.S.Kumar

For R4 : Mr.H.Arumugam

ORDER

The present revision has been filed by the plaintiff in a suit for partition, challenging an order under which Order 6 Rule 17 application was dismissed.

2. When P.W.1 cross was completed, the plaintiff had filed I.A.No. 3 of 2022 to amend the schedule of property to incorporate east-west, north-south measurement and extent of the property so that no dispute may arise in future. However, the said application for amendment of plaint was strongly objected to by the defendants citing the proviso to Order 6 Rule 17. The learned trial Judge had dismissed the application on the ground that the said objection was raised by the defendants in the year 2018 itself at the time of filing of the written statement. That apart, during cross-examination, these questions have been raised as against the plaintiff in the year 2019. However, the present application for amendment of plaint has been filed in the year 2022. On these grounds, the trial Judge had dismissed the said application.



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3. It is a suit for partition and according to the plaintiff, the entire T.S.No.483 belongs to the plaintiff. When the entire T.S.No.483 belongs to the plaintiff, the question of inserting east-west, north-south measurements or the extent of the property, is not going to improve the case of the plaintiff in seeking partition of his alleged 1/3rd share in the said property. This amendment is redundant. Therefore, there is no ground to interfere in the order passed by the trial Court.

4. In view of the above said observations, this Civil Revision Petition stands dismissed. Considering the fact that the suit is of the year 2016, the learned Principal Subordinate Judge, Tirunelveli is directed to dispose of the same on merits and in accordance with law after giving due opportunity to both the parties on or before 30.11.2023. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

20.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To



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- 1.The Principal Sub Court,
Tirunelveli.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

R.VIJAYAKUMAR ,J.



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Order made in
C.R.P(MD)No.398 of 2023

20.02.2023