



C.R.P(MD)No.139 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 19.08.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P(MD)No.139 of 2023

and

C.M.P(MD)No.633 of 2023

1.Tamilarasi

2.Ellammal

3.Vijaya

... Defendants 4 to 6 /
Petitioner /
Petitioner

Vs.

1.T.Ramasamy

... Plaintiff /
Respondent /
Respondent

2.Pappathi

3.Bommuthai

... Defendants 1 & 2 /
Respondents /
Respondents

4.Pappammal

5.Selvamani

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6.Thanushmani

... Defendants 7 to 9 /
Respondents /
Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records pertaining to the order passed by the learned Principal Subordinate Judge, Karur in I.A.No.1 of 2022 in O.S.No.291 of 2013 vide his order dated 07.11.2022 and set aside the same.

For Petitioners : Mr.P.Samuel Gunsingh

For Respondents : Mr.S.Gokul Raj for R.1

No Appearance for R.2 to R.6

ORDER

Heard both sides.

2.The first respondent herein filed O.S.No.291 of 2013 seeking partition and separate possession and for injunction. The revision petitioners herein are figuring as D.4 to D.6. They filed I.A.No.1 of 2022 for amending the suit schedule for including some more items. The Court below vide order dated 07.11.2022 dismissed the IA. Challenging the same, this Civil Revision Petition came to be filed.

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3.The learned counsel appearing for the revision petitioners reiterated all the contentions set out in the memorandum of grounds of revision. He called upon this Court to set aside the impugned order and grant relief as prayed for.

4.The learned counsel appearing for the plaintiff submitted that the impugned order is well reasoned and that it does not warrant interference.

5.I carefully considered the rival contentions and went through the materials on record.

6.The suit was filed way back in the year 2013. The revision petitioners herein filed their written statement in February 2014. It has been pleaded therein that the suit is bad for partial partition. According to them, few more items of Late.Thirumalaisamy Naicker will have to be included in the suit schedule. The trial commenced in 2020 itself. Plaintiff side has been closed and the case is posted for cross examination of D.W.1. At this stage, the present IA came to be filed.



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7.As rightly pointed out by the Court below, the application for amendment has been filed rather belatedly. The post trial amendment cannot be liberally allowed. It is not as if new facts were discovered only recently. The defendants have consistently taken the stand right from the exception that the suit is bad for partial partition and that some more items will have to be included in the suit schedule. If that be so, nothing prevented the revision petitioners herein from taking out an application for amendment well in time. The conduct of the revision petitioners cannot be appreciated. It appears that they are rather bent on prolonging the suit proceedings. I cannot lose sight of the fact that it was the plaintiff who came to the Court seeking the relief of partition.

8.In this view of the matter, interfere with the impugned order is not warranted. This Civil Revision Petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

19.08.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
MGA

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The Principal Subordinate Judge,
Karur.



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G.R.SWAMINATHAN, J.

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