



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 09.07.2025

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI
CRP.No.2232 of 2024
and CMP. Nos.11757 of 2024

R.K.Muthusamy

... Petitioner

Vs.

1.Nallammal
2.B.Vishalakshi
3.S.Samundeeswari
4.D.Gandhimathi
Arunachala Gounder (Died)
5.A.Gunasekaran
6.A.Ashok Kumar
A.Ratheeswaran (Died)

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside fair and decreetal order dated 06.01.2024 made in I.A. No.13 of 2023 in O.S. No.135 of 2013 on the file of the Principal Subordinate Judge, Erode.

For Petitioner : Mr.M.Guruprasad
For Respondents : Mr.P.Kannankumar for R1

ORDER

The first defendant in a suit for partition has come up by way of the present revision challenging the order dated 06.01.2024 in I.A. No.13 of 2023 in O.S. No.135 of 2013.



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2. The plaintiff, admittedly when the suit was at the stage of arguments had taken out an Application for amendment of the plaint by seeking to include certain properties available for partition and by deleting certain other items that had been alienated even prior to the institution of the suit. The Trial Court finding that no serious prejudice would be caused to the first defendant and that in order to avoid multiplicity of proceedings, it would be in the interest of the parties to permit the amendment that has been sought for by the plaintiff. Challenging the said order permitting amendment, the first defendant has filed the present revision.

3. The learned counsel for the revision petitioner states that the written statement was filed way back on 16.12.2013 and even in the written statement, it has been clearly set out that the properties that have already been alienated are sought to be partitioned and equally, there is also mention of property that has been left out. The first defendant, in fact, claims that there has been an oral family arrangement in the family and therefore, the plaintiff is not entitled to any right to seek for partition in any of the suit items. The learned counsel would therefore state that at the time of arguments, it would not be open to the respondent/plaintiff to seek amendment of the plaint which would only further delay the proceedings.



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4. The learned counsel for the respondents/plaintiffs however contends that the Trial Court has exercised judicial discretion in allowing the amendment Application, finding that no serious prejudice would be caused to the respondent.

5. I have carefully considered the rival submissions advanced on either side. I have gone through the order passed by the Trial Court which is under challenge before this Court.

6. In the suit for partition, it is trite law, all properties which are available for partition have to be necessarily included in the suit items of property as otherwise, the suit is liable to be dismissed on the ground of partial partition, which is bad in the eye of law.

7. In the light of the above, I do not find any infirmity in the findings of the Trial Court stating that by permitting the plaintiff to delete certain properties that have already been sold to third parties and to include certain properties that are available for partition, which is also the case of the first



defendant, and in order to avoid multiplicity of proceedings, the amendment was necessary.

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8. No doubt there has been an inordinate delay on the part of the plaintiff to bring up the Application seeking amendment, despite the plaintiff being put on notice about these facts as early as on 16.12.2013. However, the prejudice caused to the first defendant can be compensated by way of costs and therefore, while confirming the order of the Trial Court, I direct the respondent/plaintiff to pay costs of Rs.5,000/- to the first defendant before the Trial Court, within a period of two weeks from the date of receipt of the copy of the order. Subject to the payment of costs by the respondent/plaintiff, the Trial Court shall grant two weeks time to the plaintiff to carry out amendment to the plaint and thereafter, further two weeks to the defendants to file additional written statement and any additional issues that arise for consideration, may be framed within a period of one week thereafter.

9. Accordingly, this Civil Revision Petition is dismissed with the



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above direction. Considering that the suit is of the year 2013, the suit shall be disposed of within a period of three (3) months from the date of framing additional issues. Consequently, connected Miscellaneous Petition is also closed. No costs.

09.07.2025

Speaking/Non-speaking : Yes/No

Index : Yes / No

rkp

To

The Principal Subordinate Judge, Erode.

P.B.BALAJI.J.,

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