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CRP.No.3753 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2025

CORAM

THE HONOURABLE MR. JUSTICE P.B.BALAJI

CRP.No.3753 of 2023

and

CMP.No.23381 of 2023

1.Andiyammal
2.G.Krishnan
3.Moorthy @ Vadivel
4.Sakthivel
5.Ponnuvel
6.Pachamuthu

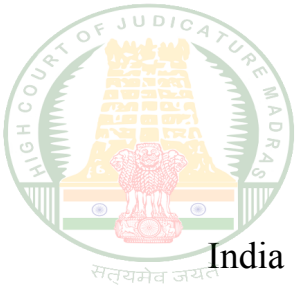
... Petitioners/Defendants 1 to 6

Vs.

Nallammal (Died)
1.Kamala
2.Pavunammal
3.Sivagami
4.S.Karthikeyan
5.Elango
6.Amutha
7.Devaki
8.Shanthi
9.S.Saravanan
10.Prema
11.Sundari
12.V.Krishnamoorthy
13.Mageshwari
14.Karthikeyan
15.Narmadha

... Respondents/Plaintiffs

... Respondents/Defendants 7 to 16



Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and final order dated 27.06.2023 passed by the learned Sub-ordinate Judge, Omalur passed in I.A.No.2/2023 in O.S.No.624 of 2018 and allow this revision petition.

For Petitioner : M/s.T.Ganesan

For Respondents : Mr.M.Elango for R1 to R4
: R5 to R15 - No appearance

ORDER

The defendants who are aggrieved by the order permitting amendment to the plaint at the instance of the respondents / plaintiffs, are before this Court by way of the above revision petition.

2. Learned Counsel for the petitioners would submit that the plaintiffs are the sisters of the second defendant and it was their specific case in the original plaint that the lands were Natham lands under the occupation of the father and therefore, as legal heirs, they are also entitled to a share in the same and consequently they have sought for the relief of partition. Thereafter, plaintiffs examined three witnesses on their side and after the case was posted for defendants side evidence, the application has been taken out to



amend the plaint to introduce registered Sale Deeds in the name of the father.

Learned Counsel would further invite the attention of this Court to the cross examination of P.W.1 and contend that by introducing these documents, the very character of the suit gets altered and the same is not permissible, especially post trial amendments have been deprecated by this Court as well as by the Hon'ble Supreme Court. Learned Counsel would also rely on the decision of the Hon'ble Supreme Court in ***Revajeetu Builders & Developers v. Narayanaswamy & Sons*** reported in ***(2009) 10 SCC 84*** as well as the Judgment of the Division Bench of this Court in ***AIADMK/presently known as All India Anna Dravida Munnetra Kazhagam (Amma) v. AIADMK (Puratchi Thalaivi Amma)*** reported in ***2024 (1) CTC 287*** in support of his contentions.

3. Per contra, learned Counsel for the respondents / plaintiffs 1 to 4 would submit that the respondents have specifically come forward to state that the said registered document in the name of the father was not in their custody and he would point out that even in the counter affidavit, the said averment has not been denied. It is the only contention of the revision petitioners that Grama Natham Patta has been issued to the persons who are found to be in occupation and therefore, subsequently, the petitioners being



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the mother and son have been issued with Grama Natham Patta. He would therefore contend that no serious prejudice would be caused by permitting the amendment to introduce reference to registered Sale Deeds, by which the father had purchased the property in the year 1962. Learned Counsel would further submit that even under Order 6 Rule 17, there is no embargo for the Court to deny even post trial amendments, if it is of the opinion that the amendment was required to adjudicate the real questions in controversy. Hence prays to dismiss the revision petition.

4. I have carefully considered the submissions made on either side.

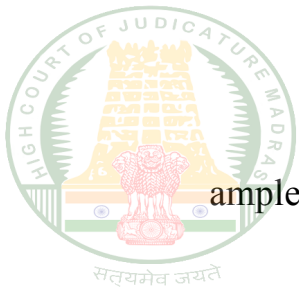
5. The suit is for partition and separate possession by the daughters of one Govindan. At the time of filing the suit, the plaintiffs are aware that their father was issued with Patta and he was entitled to the property and on the basis of being legal heirs of the said Govindan, the plaintiffs have sought for partition and separate possession. After trial, when the suit was posted for evidence of the defendant, the plaintiffs have taken out the amendment application to introduce the plea with regard to registered Sale Deed dated 17.10.1957 and 12.11.1962, by which a portion of the property have been purchased by late Govindan. The said application has been resisted by the



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defendants on the ground that the introduction of said pleas would totally alter the character of the very suit itself and therefore, the amendment should not be permitted. On enquiry, the trial Court has found that the proposed amendments are necessary to avoid multiplicity of proceedings and has allowed the application for amendment.

6. With regard to the relief sought for by the plaintiffs, it is one for partition based on right available to them being daughters of late Govindan. Therefore, when that is the basis for the claim made for partition, merely because two Sale Deeds, that too registered documents are sought to be pleaded in the plaint, I do not see how the original character of the suit gets altered. Further, no new plea is introduced which goes against the prayer sought for in the plaint, which is only for partition and for separate possession. No prejudice would be caused to the respondents / defendants, if the Sale Deeds are allowed to be pleaded and since even according to the plaintiffs, the father himself has purchased the property mentioning them only as Grama Natham lands, therefore, it is always open to the defendants to contend that their possession was recognised by the State by issuing Patta and thereby there would be no value addition to the plaint by placing reliance on the Sale Deeds in favour of the father. The defendants will also have

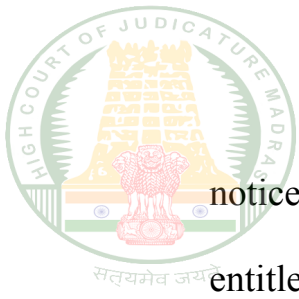


ample opportunity to cross examine the plaintiffs.

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7. In view of the above, I do not find any infirmity in the order of the trial Court permitting the amendment. In so far as the decision that has been relied on by the learned Counsel for the petitioner, the Division Bench of this Court, finding that there was change to the character of the suit which was originally filed, held that amendment would not be permissible. Even in the decision of the Hon'ble Supreme Court, it was a case where the Hon'ble Supreme Court found that a new and inconsistent cause of action was being pleaded by way of amendment. Therefore, when there is no inconsistent or new cause of action being introduced in the plaint, the claim of the plaintiffs only being that they are the daughters of late Govindan and they are entitled to share in the subject property, I do not find the decisions applying to the facts of the present case.

8. The trial Court has also held that the amendments are necessary to adjudicate the issues and proceeded to allow the interlocutory application and the same does not deserve interference under Article 227 of the Constitution of India. However, considering the fact that it is brought to my



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notice that amendments have already been carried out, the defendants are entitled to file an additional written statement within a period of four weeks from the date of receipt of a copy of this order and for the purposes of speaking about the amendments that have been sought in the plaint, P.W.1 shall be examined and the evidence of P.W.1. shall be completed by 14.08.2025 and thereafter, the defendants shall have their opportunity to lead evidence.

9. Considering the fact that the suit is of the year 2018 and the first plaintiff is also aged over 80 years, the trial Court shall dispose of the suit by the end of November, 2025.



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10. In fine, I find no merits in this revision and the Civil Revision

Petition is dismissed with the above directions in paragraph nos.8 & 9. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Website:yes/no
Speaking Order/Non-Speaking Order
veda

To
The Sub-ordinate Court, Omalur.



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P.B.BALAJI, J.

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