



C.R.P.(PD)(MD).No.2256 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(PD)(MD)No.2256 of 2022

and

C.M.P.(MD)No.10604 of 2022

1.K.Thiruvengadam

2.K.Neelamegam

... Petitioners

Vs.

1.R.Parimala

2.K.Rajakumari

... Respondents

PRAYER: Civil Revision Petition - filed under Article 227 of Constitution of India, to set aside the fair and decreetal order in I.A.No.3 of 2022 dated 03.08.2022 in O.S.No.292 of 2022 on the file of III Additional District Court, Tiruchirapalli.

For Petitioner : Mr.K.R.Kishore Ram

For R1 : Mr.Shankar Murali

ORDER

This Civil Revision Petition is filed challenging the order in I.A.No.3 of 2022 dated 03.08.2022 in O.S.No.292 of 2022 on the file of III Additional District Court, Tiruchirapalli.

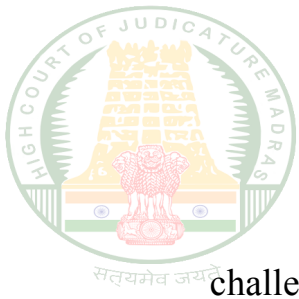


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2.The petitioners are the defendants in O.S.No.292 of 2022 filed by the first respondent/plaintiff for partition. During the pendency of the suit, the first respondent /plaintiff filed an application in I.A.No.3 of 2022 for amending the payer under Order VI Rule 17 and Section 151 of CPC. The claim made by the plaintiff in that petition is that one of the disputed properties was omitted to be included in the suit and the Will vide document No.54/1986, dated 07.05.1986, which is alleged to be executed in favour of the defendants by their father is void. For inclusion of the property and to declare the said Will as null void, the petitioner has filed the amendment application. The said application was allowed. Challenging the same, the present Civil Revision Petition is filed.

3.The learned counsel for the petitioners submits that initially the suit was filed only for partition. Now the first respondent/plaintiff seeks to include the prayer of declaration by changing the entire cause of action. Further, no document can be challenged after a period of three years from the date of document or from the date of knowledge of the document. The registered Will was executed in the year 1986 and the same cannot be put into



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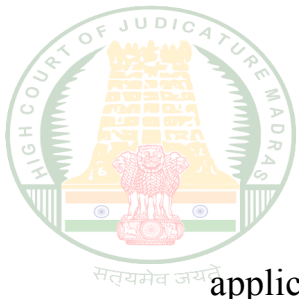
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challenge in the year 2022. The trial Court without considering all these aspects has allowed the application filed by the first respondent and the same is not sustainable.

4.Per contra, the learned counsel for the first respondent/plaintiff submitted that for filing an application seeking amendment of plaint, three years time limit is prescribed under the Limitation Act. In the present case, the suit was filed in the year 2022 and the amendment application is also filed in the same year. The learned counsel for the petitioner submits that the registered Will of the year 1986 came to the knowledge of the plaintiff/first respondent very recently. Hence, the petitioner filed has filed the petition seeking amendment of plaint. Therefore, the order of the trial Court need not be interfered with.

5.Considered the rival submissions made on either side and perused the materials placed on record.

6.Admittedly, the first respondent/plaintiff filed the suit for partition as against the petitioners/defendants in the year 2022. Thereafter, he filed an



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application seeking amendment. The said amendment is not barred by limitation. Further, no prejudice would be caused to the petitioners by the amendment sought by the first respondent/plaintiff. The petitioners/defendants can very well canvass all the grounds raised herein before the trial Court at the time of trial by adducing valid evidence. Therefore, this Court is not inclined to interfere with the order of the trial Court.

7. Accordingly, this Civil Revision Petition is dismissed. The trial Court is directed to dispose of the suit without being influenced by the observations made by this Court in this petition as well as by the trial Court in the application filed for amendment. No costs. Consequently, connected miscellaneous petition is closed.

07.08.2025

NCC : Yes/No
Internet : Yes / No
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To

- 1.The III Additional District Court, Tiruchirapalli.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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