

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2015

CORAM

THE HONOURABLE MR. JUSTICE **D.HARIPARANTHAMAN**

C.R.P.(PD)No.3526 of 2015 and
M.P.No.1 of 2015

1.Lakshmiammal
2.Amutha
3.Deepa
4.Ravichandran

... Petitioners

vs.

Samu

...Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 14.07.2015 in I.A.No.238 of 2015 in O.S.No.391 of 2012 on the file of the Principal District Munsif at Vellore, rejecting the place of amendment of pleadings in O.S.No.391 of 2012 pending before the Principal District Munsif Court, Vellore.

For Petitioners : Mr.D.Nandagopal

For Respondent : Mr.P.Mani

ORDER

The revision petitioners are the plaintiffs in O.S.No.391 of 2012 on the file of Principal District Munsif, Vellore and the respondent herein is the defendant therein. It is a suit for declaration and permanent injunction.

2. Before commencement of trial, the plaintiffs sought to amend the plaint by filing an application in I.A.No.238 of 2015 in O.S.No.391 of 2012 under Order 6 Rule 17 C.P.C. By an order dated 14.07.2015, the Trial Court rejected the said application. Challenging the same, the petitioners have come up with this petition.

3. When the matter came up for admission, since it was represented that amendment of pleadings was made before commencement of trial, this Court ordered notice of motion and granted interim stay on 02.09.2015.

4. On notice, the respondent/defendant entered appearance through counsel.

5. Heard both sides.

6. The learned counsel for the respondent/defendant has submitted that plaintiffs could seek amendment under Order 6 Rule 17 C.P.C. before commencement of trial, but the Trial Court rejected the same on the ground that application seeking amendment to plaint is vague. He has taken me through paragraph 7 of the order of the Trial Court as well as the application seeking amendment.

7. As rightly submitted by the learned counsel for the respondent, the

details of amendment sought to be made runs into 10 paragraphs and the amendment is vague as to the area of inclusion in the plaint. Further, as rightly held by the Trial Court in paragraph 4 of the the order, the place of amendment was not stated and purpose of amendment was not pleaded.

8. When these defects have been pointed out, the learned counsel for the revision petitioners seeks permission of this Court to withdraw I.A.No.238 of 2015 in O.S.No.391 of 2012 with liberty to file fresh application by correcting the defects pointed out by the Trial Court. Since trial has not yet commenced, I am of the view that the petitioners could be permitted to withdraw the interlocutory application with liberty to file fresh application giving all the necessary details relating to amendment of plaint.

9. Accordingly, this revision petition is disposed of permitting the revision petitioners to withdraw I.A.No.238 of 2015 in O.S.No.391 of 2012 with liberty to file fresh application seeking amendment to plaint. No costs. Consequently, connected miscellaneous petition is closed.

16.10.2015

Index : Yes/No

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D.HARIPARANTHAMAN,J.,

svki

To
The Principal District Munsif, Vellore.

C.R.P.(PD)No.3526 of 2015

16.10.2015