



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 10.04.2015
CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

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C.R.P. (PD) (MD) Nos.471 and 472 of 2015
and
M.P. (MD) .No.1 of 2015

1. S.Mohamed Noogu
2. S.M.Saleem

... Petitioners in both CRPs.

Vs.

Sheik Shahul Hameed

... Respondent in both CRPs.

PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India against the fair and decreetal order dated 20.02.2015 passed in I.A.Nos.194 and 195 of 2015 in O.S.No.221 of 2012 on the file of Principal District Munsif Court, Padmanabhapuram.

For Petitioners : Mr.M.P.Senthil
For Respondent : Mr.K.Sreekumaran Nair

C O M M O N O R D E R

The respondent filed a suit for injunction in O.S.No.221 of 2012 against the petitioners before the Principal District Munsif, Padmanabhapuram. The suit was contested by the petitioners by filing written statement. Thereafter, the respondent filed an application to amend the plaint. The plaint was amended by incorporating the relief of mandatory injunction. Thereafter, the petitioners filed additional written statement. Subsequently, the petitioners filed an application in I.A.No.194 of 2015 seeking leave to receive the counter claim. The petitioners filed another application in I.A.No.195 of 2015 for appointment of Advocate Commissioner to inspect the property and submit a report. The trial Court rejected both the applications. The petitioners are therefore before this Court.

2. Heard the learned counsel for the petitioners and the learned counsel for the respondent.

3. The factual matrix shows that the petitioners have not taken any counter claim in the written statement. It was only by way of additional written statement, they have come up with a counter claim. The learned trial Judge was therefore correct in rejecting the application for making a counter claim. The application in I.A.No.195 of 2015 was filed pursuant to the counter claim. Since I.A.No.194 of 2015 was dismissed, the learned trial Judge was justified in dismissing the application.

<https://hcservices.ecourts.gov.in/hcservices/>

4. In the upshot, I dismiss the Civil Revision Petitions. However, I make it clear that the order dismissing the applications for counter



claim would not stand in the way of the petitioners from filing a separate suit, in case they are otherwise legally entitled to sue. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Crl.side)

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Sub Assistant Registrar

To

The Principal District Munsif Court, Padmanabhapuram.

+1cc TO MR.M.P.SENTHIL, ADVOCATE SR.NO.18312

+2cc TO MR.K.SREE KUMARAN, NAIR, ADVOCATE SR.NO.18763 & 18764

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AKV

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