

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2016

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THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD) No.3170 of 2016

1. V.Venkatachalam
2. V.Loganathan

... Petitioners

..VS..

1. D.Selvaraj
2. P.Venkatachalam
3. R.Balasubramanian
4. N.P.Komarasamy

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the docket order in OSCFR No.5235 of 2016 dated 04.07.2016 passed by the Principal District Judge, Tiruppur.

For Petitioner : Mr.R.Bharathkumar

ORDER

The Civil Revision Petition has been filed by the plaintiffs, challenging the order dated 05.07.2016 passed by the Principal District Judge, Tiruppur in OSCFR No.5235 of 2016. The trial Court returned the plaint raising a query with regard to the maintainability of the plaint. The plaintiffs re-presented the papers making an endorsement in the plaint

with regard to the maintainability of the plaint. However, the trial Court posted the matter in the Open Court on 05.07.2016. On 05.07.2016, there was no representation on behalf of the plaintiffs and the plaintiffs were also absent. On the same day, the trial Court rejected the plaint under Order 7 Rule 11 of the Code of Civil Procedure.

2. Mr.R.Bharath Kumar, learned counsel appearing for the petitioners submitted that the trial Court had passed the impugned order without hearing the submissions of the petitioners/plaintiffs for the reason that the Advocates were on boycott during the relevant period. The learned counsel further submitted that an opportunity may be given to the petitioners to make their submissions before the trial Court with regard to the maintainability of the suit.

3. In view of the submissions made by the learned counsel for the petitioners, in the interest of justice, I am of the view that the impugned order dated 05.07.2016 can be set aside and the plaintiffs can be given an opportunity to make their submissions before the trial Court with regard to the maintainability of the suit.

4. Accordingly, the impugned order dated 05.07.2016 is set aside and the matter is remitted back to the trial Court for fresh consideration. The plaintiffs are directed to make their submissions with regard to the maintainability of the suit, within one week from the date of receipt of a copy of this order. The Principal District Judge, Tiruppur is directed to consider the submissions to be made by the learned counsel for the petitioners and decide the issue with regard to the maintainability of the suit afresh, on merits and in accordance with law.

With these observations, the Civil Revision Petition is disposed of.
No costs.

04.10.2016

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Note: Issue on 05.10.2016

To
The Principal District Judge, Tiruppur.

M. DURAISWAMY,J.,

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