



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CRP (MD).No.427 of 2016 and CMP(MD).No.1836 of 2016

WEB COPY

1. Naina Mohamed
2. Kulam Saribu
3. Rahumath Ali
4. Hamithun Sariya
5. Kamar Nisha
6. Abdul Rahman
7. Nasima
8. Shajahan
9. Thesima

: Revision Petitioners / Defendants
No.4,7,8,11 to 16

Vs.

1. Kather Meera
2. Sagubar
3. Jakir Hussain
4. Mydeen Abdul Kather
5. Hyther Ali
6. Zahir Hussain

: Respondents 1 to 6 / Defendants
No.5,6,3, 10 2 and 9

Seikumaideen (died)

7. Beer Meerakan
8. Mukthu Beebi
9. Heebiba
10. Aarifa
11. Mohamd Rafeek
12. Peer Sulthan
13. Panaatthuwalla

: Respondents No.7 to 13 / Respondents/
Plaintiffs

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 14.12.2015 made in I.A.No.721 of 2015 in O.S.No.158 of 2004 on the file of the District Munsif Court, Mudhukulathur.

For Petitioners

: Mr. T. Lajapathi Roy

ORDER

The Civil Revision Petition is filed against the fair and decreetal order, dated 14.12.2015 made in I.A.No.721 of 2015 in O.S.No.158 of 2004 on the file of the District Munsif Court, Mudhukulathur.



2. The revision petitioners are the defendants No.4,7,8 and 11 to 16. The respondents 1 to 6 are defendants No.5,6,3,10,2 and 9 and the respondents 7 to 13 are the plaintiffs.

3. The seventh respondent filed a suit in O.S.No.158 of 2004 for declaration and permanent injunction. The respondents 1 to 6 filed written statement and contested the suit filed by the plaintiffs. Pending suit, one of the plaintiff Seikumaideen died. The respondents 8 to 13 were impleaded as party plaintiffs. The revision petitioners filed I.A.No.721 of 2015 for permission to file additional written statement.

4. According to the revision petitioners, the deceased first defendant was conducting case on behalf of the petitioners and he did not give full particulars to the Advocate for preparing written statement. Therefore, they filed an application for filing of additional written statement. The respondents 7 to 13 filed counter affidavit and resisted the same. The respondents 7 to 13 stated that the suit is of the year 2004 and the written statement was filed on 15.02.2006 and the trial was commenced, PW.1 was examined in chief. They took number of adjournments for cross examination of PW.1. At that time, the petitioners have filed I.A.No.216 of 2015 for amendment of the written statement filed by them and the same was dismissed. Thereafter, the revision petitioners filed CRP.NO.312 of 2015 and this Court by order dated 27.04.2015, allowed the Civil Revision Petition on condition and the petitioners were permitted to amend the written statement. Again the petitioners have come out with the present petition, for permission to file additional written statement.

5. The learned Judge considering the materials on record dismissed the Interlocutory Application filed by the petitioners. Against the dismissal order the present revision is filed.

6. The learned counsel for the petitioners contended that the learned Judge erred in dismissing the application for permission to file additional written statement without properly appreciating the contention of the petitioners. Further, the learned Judge failed to see that the petitioners undertook to cooperate with conducting trial on day to day basis. The first defendant / deceased was conducting the case on behalf of the petitioners and he did not give full particulars to the Advocate to enable for preparation of written statement. In view of the order of this Court ordering amendment, it is necessary to file additional written statement.

7. I have heard the learned counsel appearing for the petitioners and perused the materials available on record.

8. From the materials available on record it is seen that



an earlier occasion the petitioners filed I.A.No.216 of 2015 for amendment of written statement and the same was allowed in CRP.No.312 of 2015 and amendment was carried out. Even that application was filed when the plaintiff / PW.1 chief examination was over. In view of the order of this Court ordering amendment, filing additional written statement is untenable. As per the orders of this Court amendment was carried out and the petitioners were permitted to carry out the amendment, they have not mentioned their objections to be raised in the additional written statement and no additional written statement was filed along with this petition. The suit is of the year 2004 and trial was commenced and the learned Judge considered all these aspects dismissed the application. In such circumstances, the application filed by the petitioner is only to drag on the proceedings.

9. The learned Judge considered all the materials on record in proper perspective and has given valid and cogent reasons for dismissing the Interlocutory Application. Further the learned Judge has exercised his power conferred on him properly and there is no irregularity or illegality warranting interference by this Court.

10. In the result, the Civil revision petition is dismissed confirming the impugned order dated 14.12.2015 made in I.A.No.721 of 2015 in O.S.No.158 of 2004, on the file of the learned District Munsif Court, Mudhukulathur. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/
Assistant Registrar (C.o.Dept)

/True Copy/

Sub Assistant Registrar

To
The District Munsif Court, Mudhukulathur.

+One CC to Mr.T.Lajapathi Roy, Advocate in Sr.No.10592

CN/Skn-Sk/8.03.2016/3P-3C

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