

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.02.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

CIVIL REVISION PETITION (PD) No.3432 of 2014
and
M.P.No.1 of 2014

B.Lenin Balu

.. Petitioner

vs.

1.D.Rajasekaran
2.Seevur Panchayath Board
Rep.by its President,
O/o.Kallur, H/o.Sevur, Gudiyattam

3.T.Siva

.. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order passed by the District Musif Court at Gudiyattam in I.A.No.654 of 2013 in O.S.No.192 of 2013 allowing the withdrawal petition with an liberty to file a fresh suit for the sold common path without giving opportunity to the Caveator and also dismiss the review petition filed by the petitioner/caveator.

For Petitioner	...	Mr.K.S.Vishnu Prasad
For R1	...	Mr.V.Manoharan
For R2 and R3	...	No appearance

ORDER

The trial Court, considering the facts and circumstances of the case, allowed the petition and permitted the plaintiff to withdraw the suit without prejudice to his right to file a fresh suit. Challenging the order, the petitioner/caveator filed the present revision petition mainly on the ground that the trial Court ought not to have allowed the plaintiff to withdraw the suit.

2. Order 23 Rule (3) of Code of Civil Procedure enumerates that the plaintiff is entitled to withdraw the suit and the trial Court has rightly allowed the petition, considering the reasons set out by the plaintiff in his petition. Withdrawal of the suit is a right of the plaintiff and the trial Court has to find out at what stage a withdrawal shall be permitted and such a withdrawal will cause any prejudice to the other parties to the suit or not?

3. In the case on hand, the trial has not yet commenced and before the commencement of trial, the plaintiff filed the petition seeking withdrawal of the suit. Pre-trial withdrawal is a right of the plaintiff and Courts need not restrain or reject such applications seeking withdrawal of the suit.

4. Such being the proposition, this Court is not inclined to consider the present revision petition filed by the petitioner/caveator and accordingly, the fair and decreetal order passed by the District Munsif Court, Gudiyattam, Vellore District in I.A.No.654 of 2013 in O.S.No.192 of 2013 is confirmed and this Civil Revision Petition No.3432 of 2014 is dismissed. No order as to costs. Consequently, connected Miscellaneous Petition is closed.

09.02.2017

Index:Yes
Internet:Yes

To

The District Musif Court, Gudiyattam

S.M.SUBRAMANIAM,J.,

**C.R.P.(PD)No.3432 of 2014 and
M.P.No.1 of 2014**

09.02.2017