

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2017

C O R A M

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.P.D.No.52 of 2017
and C.M.P.No.319 of 2017

1. M.Balaji
2. B.Suseela

.. Petitioners

-Vs.-

1. K.Subramaniam
2. K.Mahendran
3. K.Ramesh

.. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 04.10.2016 in I.A.No.490 of 2016 in O.S.No.240 of 2013 passed by the learned District Munsif Court at Sathyamangalam.

For petitioner ... Mr.C.Samivel

O R D E R

The revision petitioners have filed the suit for permanent injunction against the respondents not to evict them unless by due process of law.

2. It is the definite case that they are tenants of the suit

property by virtue of an oral lease for a period of three years and on a monthly rent of Rs.3,000/- (Rupees three thousand only). However, the same was denied by the defendants in the written statement filed on 07.03.2014. It is only on the strength of tenancy right, the suit has been filed and the trial has also commenced. As P.W.1 has filed his proof affidavit and it is posted for cross examination of P.W.1, at this stage, the amendment application has been filed stating that an additional sum of Rs.25,000/- and another sum of Rs.35,000/- were paid to the defendants and some more amounts were paid, in all Rs.90,000/- was paid to the defendants and on such payment, the plaintiffs were allowed to occupy the house without paying the rent, treating the payment as "Bogyam".

3. The learned trial Judge has dismissed the application stating that the plaintiffs are introducing a new case.

4. A pleading could be amended only if it is to substantiate the pre-existing facts already contained in the original plaint. A new cause or case cannot be substituted under the guise of amendment. In certain

circumstances, subsequent steps taken by the parties for amendment can be allowed, however, such amendment should not change the original cause of action.

5. In the present case, originally, the plaintiffs are claiming to be the tenants under the defendants and now, by virtue of the amendment sought for, they claim to be "Bogyamdhar" and that they cannot be evicted unless by due process of law. This totally changes the structure of the suit, which is impermissible in law. The trial Court has rightly dismissed the same and there is no reason to interfere with the same in this revision petition.

6. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

srn

12.01.2017

To

The District Munsif Court,
Sathyamangalam.

PUSHPA SATHYANARAYANA.J

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