

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.04.2018

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P.(PD).No.1344 of 2018 and
C.M.P.No.7045 of 2018

1. Muthusamy
2. Arumugham
3. Annapoorani
4. Ponnusamy

... Petitioners

Vs.

Avinashiappan

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order in I.A.No.1614 of 2017 in O.S.No.78 of 2013 pending before the 2nd Additional District & Sessions Judge, Tiruppur dated:12.01.2018.

For Petitioners : Mr.VA VU SI Vazhakagam

For Respondent : Mr.P.Valliappan

ORDER

The relief sought for in this revision is to set aside the order made in I.A.No.1614 of 2017 in O.S.No.78 of 2013 pending on the file of 2nd Additional District & Sessions Judge, Tiruppur dated:12.01.2018.

2. The Revision petitioners are plaintiffs in O.S.No.78 of 2013 and

respondents in I.A.No.1614 of 2017. The Revision petitioners have filed the suit against the respondent in O.S.No.78 of 2013 on the file of II Additional District & Sessions Judge, Tiruppur.

3. The petitioners herein filed a suit against the respondent for declaration and permanent injunction, in which the respondent filed an Interlocutory application before the Trial Court under Order VIII Rule 9 of CPC for filing an Additional written statement.

4. The learned II Additional District and Sessions Judge, Tiruppur, after hearing the arguments advanced on either side, by an order dated 12.01.2018, allowed the application in I.A.No.1614 of 2017 in O.S.No.78 of 2013, directing the applicant/ 1st defendant to pay a cost of Rs.1,000/- to the respondent/plaintiff herein.

5. Aggrieved against the said order dated 12.01.2018, the Revision petitioners are before this Court with the present civil revision petition.

6. Heard both sides and perused the documents available on record.

7. It is admitted fact that the revision petitioners are plaintiffs in the suit. Originally, the respondent filed the written statement on 24.03.2016. Subsequently, after completion of pleading, and also framing of issues during the trial when the revision petitioners side witness PW1 was in the witness box for cross examination in the middle of trial, the respondent filed an application for receiving additional written statement. Though the Trial Court has considered and allowed the application, no doubt the suit is filed in the year 2013 and the written statement is filed in the year of 2016. Even after, one and half year that too after commencement of trial, at the stage of Cross examination of PW1, the first respondent filed the application in I.A.No.1614 of 2017, the order made in that application is under challenge.

8. In the said order, the trial Court referred to the cases reported in 2007(4)-LW-924 (Muthuraman Vs Muthukumaran) and 2007-2-LW-987 (R.S.Nagarajan Vs R.Gopal) and granted permission to file the additional written statement. Thus, this Court does not find any infirmity or illegality in the order passed by the trial court in I.A.No.1614 of 2017 in O.S.No.78 of 2013 dated 12.01.2018.

P.VELMURUGAN, J.,

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10. However, since the respondent has filed the application, belatedly after commencement of the trial, which cause inconvenience to the petitioners, for which the petitioners have to be adequately compensated with cost. Hence, the respondent herein/petitioner in I.A.No.1614 of 2017 in O.S.No.78 of 2013, is hereby directed to pay a sum of Rs.25,000/- to the petitioners/plaintiffs towards cost, on or before 25.04.2018.

12. With the above direction, this Revision petition is disposed of. Consequently, the connected Miscellaneous petition is closed.

11.04.2018

Note: Issue order copy on 13.04.2018

Index:Yes/No

Speaking order / Non speaking order

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To

The Additional District & Sessions Judge II,
Additional District & Sessions Court,
Tiruppur.

C.R.P.(PD).No.1344 of 2018

& C.M.P.No.7045 of 2018