

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.10.2018

Coram

The Honourable Ms.Justice P.T.ASHA

**C.R.P(PD)No.3912 of 2012
and
M.P.No.1 of 2012**

1.S.Kumari
2.E.Usha

...Petitioners

Versus

1.R.Chandran
2.R.Arulmani
3.Elumalai
4.S.Karthi

...Respondents

This Civil Revision Petition is filed under Article 227 of the Constitution of India praying to set aside the order dated 12.07.2011 made in I.A.No.300 of 2011 in O.S.No.256 of 2010 on the file of the District Munsif Court, Sankarapuram.

For Petitioners : Mr.P.Tamilavel

For Respondents - 1 to 3 : Mr.K.P.Jotheeswaran

Respondent - 4 : No Appearance

ORDER

This Civil Revision Petition is filed by the petitioners 1 & 2 challenging the order passed by the learned District Munsif, Sankarapuram in I.A.No.300 of 2011 in O.S.No.256 of 2010 dated 12.07.2011, in and by which the learned District Munsif had rejected the Interlocutory Application filed by the petitioners 1 & 2 for amending the second and third paragraphs of the written statement by removing the full stops and substituting the same with the word, "vd;Wk;;" and to add the existing paragraph No.3 to paragraph No.2, and renumbering the whole paragraphs.

2. In the affidavit filed in support of the said Application, the revision petitioners would submit that it was only now they had come to notice this mistake and therefore, they had immediately filed I.A.No.300 of 2011.

3. The plaintiff/respondents 1 to 3 herein resisted the above Application by *inter alia* contending that the substitution

would amount to the admission being withdrawn.

4. The learned District Munsif, Sankarapuram had proceeded to dismiss the said Application on the ground that the same would amount to an admission being withdrawn and it would cause prejudice to respondents. Challenging the said order, the revision petitioners are before this Court.

5. Heard Mr.P.Tamilavel, the learned counsel for the revision petitioners and Mr.K.P.Jotheeswaran, learned counsel for the respondents.

6. A conjoint reading of paragraph Nos.2 & 3 of the written statement would indicate that the revision petitioners have simply extracted the averments contained in the plaint and have denied each and every point of those averments. Therefore, the only inference that can be drawn is that the full stop has been put in by mistake and the intention of the defendants is only to deny the statement of the plaintiffs. It is also to be noted that the written statement opens with the sentence that the plaintiffs

had denied the very claim of the plaintiffs, therefore, there is no other logical explanation to deny the request of the revision petitioners. It is also to be noted that the parties are yet to enter trial in the matter and therefore, the question of an admission at this juncture would not be correct.

7. The learned District Munsif, Sankarapuram ought to have considered the written statement as a whole and it is on account of this omission that he has proceeded to dismiss the Application. The order of the learned District Munsif suffers from an error and therefore, the same is liable to be set aside.

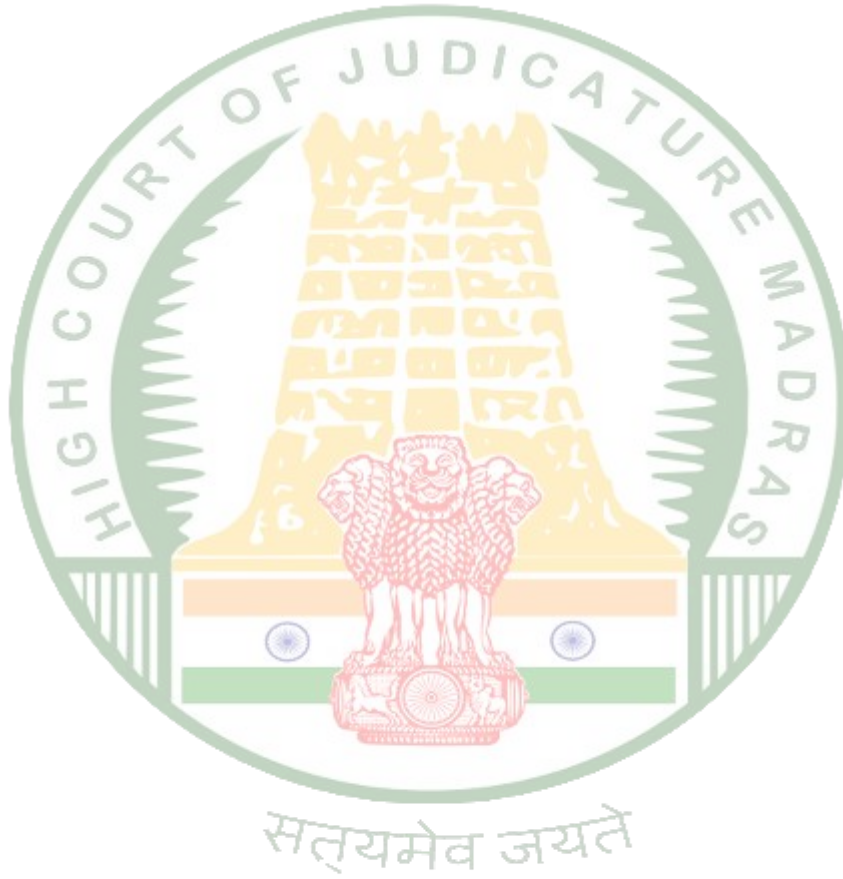
8. In the result, this Civil Revision Petition is allowed and the order passed by the learned District Munsif, Sankarapuram I.A.No.300 of 2011 in O.S.No.256 of 2010 dated 12.07.2011 is set aside. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

25.10.2018

jrs/mrr

Index : Yes/No

To
The District Munsif Court,
Sankarapuram.



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P.T.ASHA, J.,

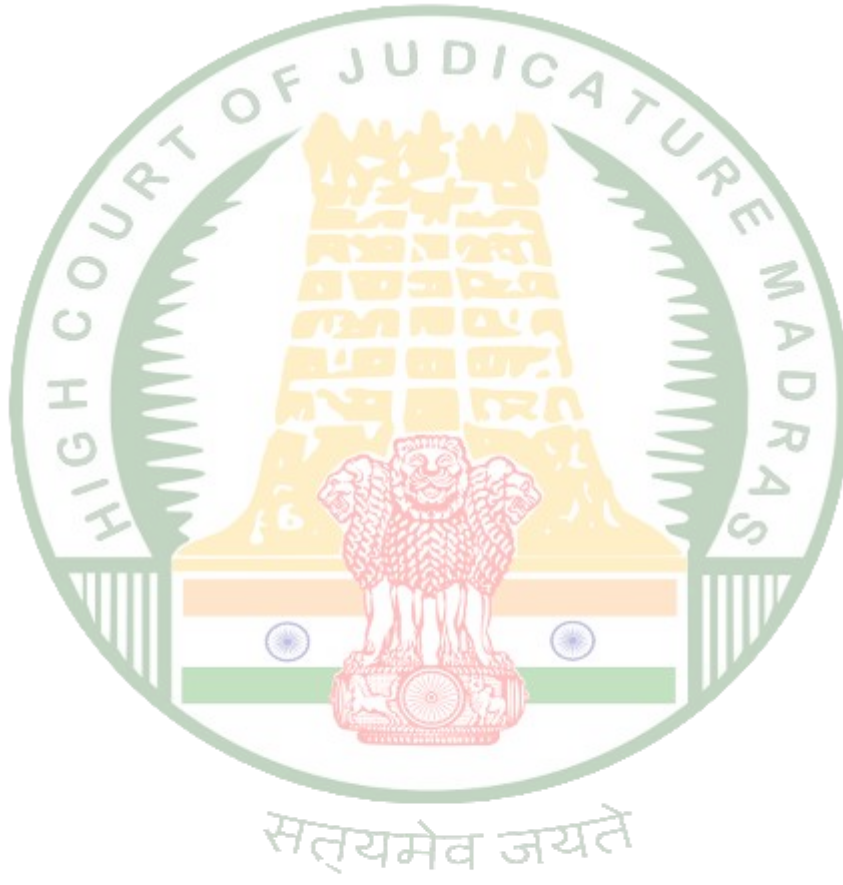
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