



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:27.09.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) No.758 of 2018
and
Crl.M.P. (MD) .No.3339 of 2018

1.V.Kathiresan
2.V.Ramesh
3.V.Kumaresan

.. Petitioners/Respondents 1 to3/
Defendants 1 to 3

vs.

1.Raj Finlease Ltd.,
Represented by its Director,
Dinesh Chordia

.. 1st Respondent /Petitioner/
Plaintiff

P.Rajamanickam (died)
2.R.Sornam
3.R.Suresh Packiyam
4.Backiya Lakshmi
5.Manimala

.. Respondents 2 to 5/
Respondents 5 to 8/
Defendants 5 to 8

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 04.12.2017 passed in I.A.No.814 of 2017 in O.S.No.166 of 2012 on the file of the learned Subordinate Judge, Valliyoor.

For Petitioners	: Mr.P.Pethurajesh
For Respondent No.1	: Mr.C.Mahadevan for Mrs.AL.Ganthimathi
For Respondent Nos.2, 3 & 5	: No appearance
Respondent No.4	: Left

ORDER

The defendants in O.S.No.166 of 2012 on the file of the Sub Court, Valliyoor are the revision petitioners herein. It is a suit for specific performance. The plaintiff filed their proof affidavit through P.W.1. It was sought to be withdrawn by filing I.A.No.814 of 2017. The Court below allowed the said IA. Questioning the same, this Civil Revision Petition has been filed.



2. The learned counsel for the plaintiff submitted that the proof affidavit filed by the plaintiff suffered from certain typographical errors and that is why he wanted to withdraw the same.

3. The learned counsel for the petitioners pointed out that once a proof affidavit has been filed, the same cannot be permitted to be withdrawn.

4. I am in agreement with the aforesaid submission of the learned counsel for the petitioners. However, in as much as the plaintiff now claims that the proof affidavit was erroneously typed, it is open to the plaintiff to clarify the said aspect either during cross-examination or at the time of his re-examination. Since P.W.1 is having such an opportunity to clarify that the proof affidavit has been erroneously typed, this Court is of the view that what is already on record can very well remain. With this liberty to P.W.1 to clarify the aforesaid typing errors, the order impugned in the Civil Revision Petition is set aside and this Civil Revision Petition stands allowed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-I)

To

1. The Subordinate Judge, Valliyoor.
2. The Section Officer, V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.P.PETHU RAJESH, ADVOCATE IN SR No. 87623
+ 1 CC TO Mr.AL.GANDHIMATHI, ADVOCATE IN SR No. 87342

PJL

TE/SKN/SAR-1 : 27/12/2018 : 2P/6C

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