



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.R.P. (MD) No.2075 of 2015
and M.P. (MD) No.1 of 2015

1.M.Kani

2.M.Kadharsha

..Petitioners/Petitioner/Plaintiffs

Vs.

1.Mohamad Yasin

represented by his Power of Attorney

M.Syed Ibrahim

2.Mohammed Sheriff

3.Mohammad Yusuf

..Respondents/Respondents/Defendants.

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the Fair and Decreeal order dated 08.06.2015 in I.A.No.652 of 2014 in O.S.No.15 of 2011 on the file of the learned District Munsif, Madurai Taluk Court at Madurai and to allow the Civil Revision Petition.

For Petitioners : Mr.Y.Krishnan

For Respondents : Mr.T.R.Jeyapalam

ORDER

The Civil Revision Petition has been filed by the Revision Petitioners, seeking to set aside the Fair and Decreeal order dated 08.06.2015 in I.A.No.652 of 2014 in O.S.No.15 of 2011 on the file of the learned District Munsif, Madurai Taluk Court at Madurai.

2.The revision petitioners are the plaintiffs and the respondents are the defendants in O.S.No.15 of 2011 on the file of the learned District Munsif, Madurai Taluk Court at Madurai. The petitioners/plaintiffs have filed the above suit before the learned District Munsif, Madurai Taluk Court at Madurai, seeking permanent injunction against the respondents/defendants. During the pendency of the suit, the petitioners/plaintiffs have filed an I.A.No.652 of 2014 in O.S.No.15 of 2011 under Order 6 Rule 17, seeking to amend the plaint and the trial Court has dismissed the said interlocutory application, on the ground that the suit has been posted for trial. Aggrieved over the same, the petitioners/plaintiffs have come forward with this Civil Revision Petition.

<https://hcservices.ecourts.gov.in/hcservices/>
3.Heard the learned counsel for the revision petitioners and revision respondents and perused the available records.



4. The petitioners/plaintiffs have filed the suit in O.S.No.15 of 2011 before the learned District Munsif, Madurai Taluk Court at Madurai and the same is pending from 2011. The petitioners/plaintiffs have filed the above said suit only based on the written lease agreement which was entered in the year 1971. Since this amendment sought by the petitioners/plaintiffs is important one, since they made claims based on the earlier lease agreement in the year 1971. Therefore, nothing prejudice to the respondents for the reason that the petitioners/plaintiffs ought to have prove the case that the written lease agreement was entered in the year 1971.

5. Apart from this, this Court and the Hon'ble Apex Court very categorically held that if the amendment sought for by the parties cannot change the character of the suit, the amendment can be allowed. Likewise, in the case on hand, there is no change of character of the suit, if this amendment is allowed.

6. In the result:

(a) this Civil Revision Petition No.2075 of 2015 is allowed and the fair and decreetal order dated 08.06.2015 in I.A.No.652 of 2014 in O.S.No.15 of 2011 on the file of the learned District Munsif, Madurai Taluk Court at Madurai is set aside.

(b) The petitioners/plaintiffs are permitted to amend the plaint within a period of one week from the date of receipt of this order. The respondents/defendants are permitted to file an additional written statement, if any in respect of amended plaint, within two weeks from the date of filing the amended plaint.

(c) The learned District Munsif, Madurai Taluk Court at Madurai is directed to dispose of the suit in O.S.No.15 of 2011 within a period of three months thereafter by conducting the trial on day-to-day basis without giving unnecessary adjournments to either parties and the parties are also directed to give their fullest cooperation for the early disposal. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(C.O.)

/True Copy/

Sub Assistant Registrar

To

The District Munsif, Madurai Taluk Court at Madurai.

+1CC to Mr.Y.Krishnan, Advocate, SR.No. 64431

+1CC to Mr.T.R.Jeyapalam, Advocate, SR.No. 63690

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