



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) No.2337 of 2017

and

C.M.P. (MD) No.11273 of 2017

1.A.Bagyalakshmi

2.G.S.Ramila

...Petitioners / Petitioners /
Plaintiffs

-vs-

R.Godavari

... Respondent/Respondent
/ Defendant

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the fair and decreetal order dated 12.10.2017 passed in I.A.No.1095 of 2016 in O.S.No.371 of 2011 on the file of the Principal District Munsif Court, Madurai Town, and allow the present Civil Revision Petition.

For Petitioners : Mr.A.Hariharan

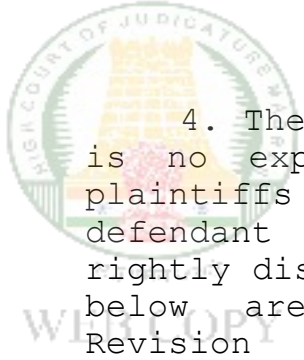
For Respondent : Mr.M.Rajaraman

ORDER

The revision petitioners are the plaintiffs in O.S.No.371 of 2011 on the file of the Principal District Munsif Court, Madurai Town. The suit is one for permanent injunction. After the trial concluded and when the matter was posted for argument, I.A.No.1035 of 2016 was filed for including the prayer of declaration and mandatory injunction. The Court below dismissed the said application. Questioning the same, this Civil Revision Petition came to be filed.

2. The learned counsel for the revision petitioner reiterated the grounds set out in the memorandum.

3. I am of the view that the Court below was justified in adopting a strict approach. In view of the amendment made under Order 6 Rule 17 of CPC, applications for post trial amendments will have to be strictly viewed. The petitioners are duty bound to satisfy, the test set out in the proviso under Order 6 Rule 17 of C.P.C.. In this case, the due diligence test set out in the said proviso has not been met.



4. The learned trial Munsif was justified in holding that there is no explanation in the affidavit as to what prevented the plaintiffs from filing this amendment petition immediately after the defendant filed his written statement. Hence, the Court below rightly dismissed the petition. The reasons given by the Court below are justified. There is no merit in this Civil Revision Petition. Hence, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

The Principal District Munsif,
Madurai Town.

+1CC TO MR.A.HARIHARAN, ADVOCATE IN SR.NO.79421.
+1CC TO MR.M.RAJARAMAN, ADVOCATE IN SR.NO.79405.

TA
DS SV SAR-4:28.09.2018: 2P/4C

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