



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.2019 of 2016

and

C.M.P.(MD) No.9479 of 2016

1.Lawrence

2.Annammal

3.Russel Raj

... Petitioners/Petitioners/
Defendants

-vs-

Siva Sreenivas

... Respondent/Respondent/
Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to call for the fair and decreetal order passed in I.A.No.297 of 2016 in O.S.No.273 of 2012 dated 27.07.2016 on the file of the learned Principal District Munsif, Kuzhithurai and set aside the same.

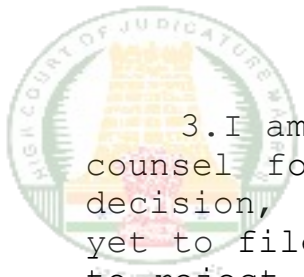
For Petitioners : Mr.B.Christopher

For Respondent : Mr.S.Saji Bino

ORDER

The defendants are the revision petitioners herein. O.S.No.273 of 2012 had been filed by the respondent herein seeking relief of declaration and recovery of possession and consequential injunction. The suit was filed in July 2012. The written statement was filed in March 2013. Trial commenced and the plaintiff examined himself as a witness in August 2015 and the plaintiff side was also closed. Thereafter, the revision petitioner filed I.A.No.297 of 2016 for amendment of his written statement. The said application was dismissed by order dated 27.07.2016. The correctness of the said order is under challenge in this Civil Revision Petition.

2.The learned counsel for the revision petitioners placing reliance on the decision of the Hon'ble Supreme Court reported in **2006 SAR (Civil) 658 [Baldev Singh & others Vs. Manohar Singh and another]** contended that the Court below must have been liberal in allowing the petition for amendment of his written statement.



3.I am unable to agree with the the submissions of the learned counsel for the revision petitioners. In the aforesaid reported decision, the Hon'ble Supreme Court observed that the parties are yet to file their documents and that therefore there was no reason to reject the application for amendment of written statement. As rightly pointed out by the learned counsel for the respondent / plaintiff, a party cannot be allowed to wholly withdraw the admissions made in the pleadings. In this case, the plaintiff side was already closed. Only thereafter, the present application for amendment of written statement was taken out. The written statement is of the the year 2013. After three years that too after the plaintiff had already examined himself, this application has been filed.

4.The Court below was right in holding that the amendment application cannot be allowed. Of course, this Court must observe that the learned counsel for the revision petitioners was right in his contention that the Court below was wrong in observing that the defendant cannot take inconsistent plea and the nature of the suit would be changed as a whole. This Court is only confirming the order passed by the Court below, but not for the reasons that led to the dismissal of the defendant's application for amendment. This Court sustains the order more for the reason that such application cannot be taken out at this stage after the plaintiff had already examined himself. This Civil Revision petition is dismissed accordingly. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (AD-I)

/True Copy/

Sub Assistant Registrar(CS-III)

To

The Principal District Munsif,
Kuzhithurai

+ 1 CC TO Mr.S.SAJI BINO, ADVOCATE IN SR No. 79375

TA

TE/PM/SAR-3 : 25/10/2018 : 2P/3C

C.R.P. (PD) (MD) No.2019 of 2016

21.08.2018