



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.95 of 2016

and

C.M.P.(MD) No.389 of 2016

1.V.S.Vijaya Nandhakumar

2.R.Tamil Selvi

...Petitioners / Respondents
Defendants

-vs-

Ra.Muruganandam

... Respondent/ Petitioner
/ Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the fair and decreetal order passed in I.A.No.553 of 2015 in O.S.No.129 of 2012 on the file of 1st Additional District Judge (PCR), Tiruchirapalli, dated 16.12.2015.

For Petitioner : Mr.M.P.Senthil
For R1 : Mr.V.Ilanchezhian

ORDER

The defendants in O.S.No.129 of 2012 on the file of the First Additional District Judge (PCR), Trichirapalli, are the revision petitioners herein. The respondent has filed the said suit for recovery of a sum of Rs.15,38,244/- from the petitioners herein. The trial in the suit commenced. Thereafter, the respondent / plaintiff discovered that the sum actually payable by the defendants works out to a sum of Rs.18,98,244/-. Therefore, he filed I.A.No.249 of 2015 for enhancing suit claim. The said suit was originally pending before the District Judge and transferred to First Additional District Judge (PCR), Trichy and renumbered as I.A.No.553 of 2015. The Court below allowed the said application. The correctness of the said order is under challenge in this Civil Revision Petition.

3. The learned counsel for the respondent / plaintiff wanted this Court to sustain the impugned order. He would submit that this order is rather consequential in nature, in view of the order dated 17.06.2015 made in CRP (PD) (MD) No.1027 of 2015.

4. I am unable to agree with the submission of the learned counsel for the respondents. As rightly pointed out by the learned counsel for the revision petitioner, the issue is no longer *res integra*. The Hon'ble Supreme Court of India in the decision reported in 2015 6 CTC 562 [*L.C.Hanumanthappa Vs. H.B.Shivakumar*] held that the relief barred by a limitation cannot be allowed to be introduced by way of amendment. The doctrine of relation is not applicable. In this case what was filed by the respondent is a money suit. This Court went through the plaint averments. It is seen that the cause of action arose as early as in the year 2011. Therefore, the limitation ended before the end of the year 2014. In this case, the amendment came to be filed only on 05.06.2015. The relief now sought for is clearly barred by limitation. Therefore, the same cannot be allowed to be over come. Hence, the order impugned in this Civil Revision Petition is set aside. Accordingly, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/
Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar (CS-III)

TO
The First Additional District Judge (PCR),
Tiruchirapalli.

+1cc to Mr.V.Ilanchezian, Advocate, SR.No.79483
+1cc to Mr.M.P.SENTHIL, Advocate, SR.No.79645

C.R.P. (PD) (MD) No.95 of 2016
21.08.2018

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