



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2019

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

CRP(MD) No.524 of 2019

and

C.M.P. (MD) No.2577 of 2019

1.Perumal
2.Thiruppathi
3.Govindarasu
4.Selvi

... Petitioners/Petitioners/Defendants

vs.

Rengasamy

... Respondent/Respondent/Plaintiff

PRAYER:- Civil Revision Petition filed the under Article 227 of the Constitution of India, to set aside the fair and decreetal order made in I.A.No.2 of 2019 in O.S.No.583 of 2014 on the file of the learned Principal District Munsif, Lalgudi dated 13.02.2019.

For Petitioners : Mr.R.Sundar

ORDER

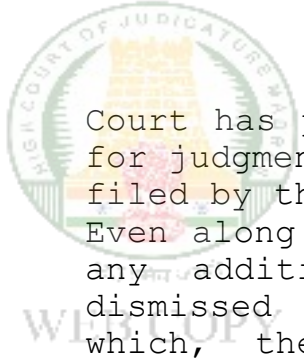
This Civil Revision Petition has been filed to set aside the order made in I.A.No.2 of 2019 in O.S.No.583 of 2014 on the file of the learned Principal District Munsif, Lalgudi dated 13.02.2019.

2.For the sake of convenience, the parties will be referred to as per their rank before the trial Court.

3.I.A.No.2 of 2019 was filed by the defendants to re-open the trial for the purpose of filing additional written statement. The plaintiff also filed his counter stating that already I.A.No.1 of 2019 was filed by the defendants for re-opening the matter for the purpose of adducing some valuable points and the same was allowed by the trial Court. Now, for the same relief, the defendants once again filed I.A.No.2 of 2019 only to delay the proceedings and preventing the plaintiff from getting early disposal and the defendants are adopting the attitude of filing the said I.A., and by way of creating a new cause of action, the defendants intend to file the additional written statement.

<https://hcservices.ecourts.gov.in/hcservices/>

4.After hearing the contentions raised by both side, the trial



Court has passed an order stating that the case was already posted for judgment on 11.01.2019 and on the same day, I.A.No.1 of 2019 was filed by the defendants and the same was allowed by the Court below. Even along with the said application, the defendants have not filed any additional written statement and hence, the trial Court dismissed the I.A.No.2 of 2019 filed by the defendants, against which, the defendants have filed the present Civil Revision Petition.

5. Heard the learned counsel for the petitioners herein/defendants.

6. The learned counsel for the petitioners herein/defendants contended that the suit in O.S.No.583 of 2014 was filed for partition and the plaintiff has omitted to mention one item of the suit property in his plaint. Hence, it is very much necessary for him to file additional written statement by mentioning the property, which was omitted by the plaintiff in the plaint. The learned counsel also brought to the notice of this Court that the plaintiff filed document number 9 along with his plaint even after filing the said document, he has to omitted to mention one item of the suit property. Unless the plaintiff's additional written statement is received for the purpose of including the property, which was omitted by him, no proper decision can be taken by the Court below.

7. On perusal of the records, it is observed that the suit was filed in the year 2014 and during the pendency of the case, I.A.No.1 of 2019 was filed by the defendants and the same was allowed by the trial Court and once again I.A.No.2 of 2019 was filed by the defendants for filing additional written statement to reopen the case. In the said I.A., the plaintiff has simply stated that "the plaintiff has not added an important property namely, the house property of the respondent/plaintiff in the said suit" and hence, the defendants sought for allowing the said I.A., stating that only at the time of argument, his counsel came to know the said fact and hence, he has advised him to file the said I.A., Along with the said I.A. No.1 of 2019, the defendants have not filed any additional written statement regarding the omission that has been made by the plaintiff in mentioning one item of the suit property.

8. On perusal of records, it is observed that the defendants have not furnished any details in the said I.A., and if they have furnished the same, the Court below would have definitely consider the same. If the defendants are very much aggrieved by the said omission, they would have furnished the additional written statement but they have not filed anything. Further, it is observed that already the said suit was posted for judgment and decree and I.A.No.2 of 2019 is the second application for the purpose of reopening the case and filing additional written statement.

9. In view of the above, the order passed in I.A.No.2 of 2019 in O.S.No.583 of 2014 on the file of the learned Principal District



Munsif, Lalgudi dated 13.02.2019, is very much reasonable, which does not warrant any interference of this Court and hence, this Civil Revision Petition is dismissed with cost of Rs.500/-. The petitioners herein/defendants are directed to pay a sum of Rs.500/- to the credit of Chief Justice Relief Fund within a period of two weeks from the date of receipt of a copy of this order and the learned Principal District Munsif, Lalgudi, is directed to dispose of the suit in O.S.No.583 of 2014 at the earliest. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Principal District Munsif,
Lalgudi.
2. The Section Officer,
Accounts Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.SUNDAR, Advocate (SR-54465[F] dated 15/03/2019)

MM

DS : 03/04/2019 : 3P/4C

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