

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2021

CORAM :

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P. (PD) No.2155 of 2021

and

C.M.P.No.16322 of 2021

R.Karuppusamy (died)

1. R.Subramanian

2. R.Murugesan

3. R.Chinnasamy

4. K.Saraswathi

5. K.Srinivasan

6. Gomathi

... Petitioners

Vs

1. P.Poopathi

2. K.Subramanian

3. M.Sangarasami

Respondents

...

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the fair and final order dated 01.04.2021 made in I.A. No. 24 of 2021 in O.S. No. 289 of 2015 on the file of the Additional Sub-Court, Tiruppur.

For Petitioners : Mr. P.M.Duraiswamy

ORDER

This Petition is filed challenging the order passed in I.A.No.24 of 2021 in O.S.No.289 of 2015 passed by the Learned Additional Subordinate Judge, Tiruppur on 01.04.2021.

2.The Learned Counsel for the Petitioners submitted that the Petitioners filed Suit against the Respondents for the relief of permanent injunction restraining the Respondents from interfering with the Petitioners' possession and enjoyment of the Suit property. The Respondents already filed written statement.

3.When the case is taken up for trial, the Respondents filed I.A.No.24 of 2021 under Order VIII Rule 9 of Civil Procedure Code for filing additional written statement. This Petition was opposed by the Petitioners. However, the Petition was allowed by the Learned Additional Subordinate Judge, Tiruppur on payment of costs. Against the said order, this Civil Revision Petition is preferred.

4.The Learned Counsel for the Petitioners submitted that there

is nothing newly pleaded in the additional written statement. Whatever is sought to be pleaded in the additional written statement had already been pleaded in the written statement. If this Petition is allowed at this point of time, it will amount to set the clock back and the Petitioners have to be given an opportunity to file reply statement, issues have to be re-framed and therefore, allowing of I.A.No.24 of 2021 is not correct and the order of the Learned Additional Subordinate Judge, Tiruppur has to be set aside.

5.Considered the submissions of the Learned Counsel for the Petitioners and perused the records.

6.It is true that Suit was filed in th year 2015 and written statement was filed in the year 2017. Petition to receive additional written statement was filed in the year 2020. From the submissions made by the Learned Counsel for the Petitioners, it is seen that Suit is pending for commencement of trial. It is seen from the affidavit filed in support of this Petition to receive additional written statement that the reason for filing additional written statement is that certain details were gathered only now and therefore, those details have to be brought to the notice of

the Court by way of additional written statement.

7.If permission is not granted for filing additional written statement, the Respondents would lose opportunity of putting forth their case and they would be prejudiced. Considering this reason, the Learned Additional Subordinate Judge, Tiruppur allowed the Petition, of course, with a direction to pay the cost of Rs.2,000/- to the Petitioners.

8.Unlike the Rules relating to amendment of Plaint, Rules regarding subsequent pleadings under Order VIII Rule 9 of Civil Procedure Code is not that rigid. With the leave of the Court and upon such terms as the Court thinks fit, the Court may permit the Defendant to raise subsequent pleadings. Considering the reasons stated by the Respondents that if the Respondents were not given opportunity to file additional written statement, they would not have the opportunity to plead their case and that would result on serious prejudice, this Court finds that allowing the Petition by imposing costs does not require any interference. Therefore, the order of the Learned Additional Subordinate Judge, Tiruppur is confirmed.

9. After receiving the additional written statement, the Learned Additional Subordinate Judge, Tiruppur is directed to give opportunity to the Petitioners to file reply statement, if any, frame appropriate additional issues, if necessary and proceed to dispose of the case on merits and in accordance with law. The suit was filed in the year 2015. This case comes under the category of old cases pending for more than five years. Therefore, the Learned Additional Subordinate Judge, Tiruppur is directed to give priority to dispose of the case as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order.

10. With the above directions, this Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

21
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Index: Yes/No
Internet: Yes/No

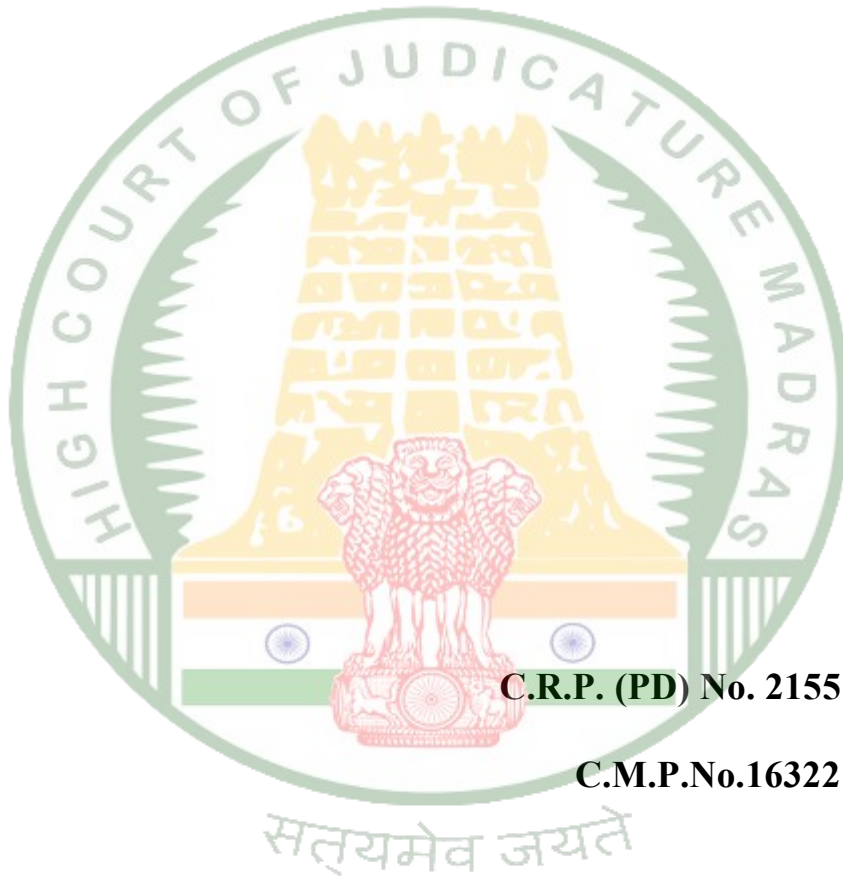
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The Additional Sub Court,
Tiruppur.

G.CHANDRASEKHARAN, J.

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