



C.R.P. No.3167 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2022

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.3167 of 2016

and

C.M.P.No.16052 of 2016

1. A.Govindan,
S/o. Arjunan

2. Mrs.G.Soundhari,
W/o. A.Govindan

... Petitioners

Vs.

1. Mrs.S.Ravarani,
W/o. Sampathu Pillai

2. Mr.S.Venu,
S/o. Sambathu Pillai

3. Mrs. Poongothai,
D/o. Sambathu Pillai

4. Mrs.S.Baby,
D/o. Sambathu Pillai

5. Mr.S.Munusamy
S/o. Sambathu Pillai



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6. Mr.Narasimman,
S/o. Natesa Pillai

7. Mr.Sekar,
S/o. Narasimman

8. Mr. Ramesh,
S/o. Narasimman

9. Mr.Sanjeevirayan, Natesa Pillai

10. Mr.V.Anandan,
S/o. Viswanathan

... Respondents

PRAYER: Civil Revision Petition filed under Sec. 115 of Civil Procedure Code, praying to set aside the order and decretal order dated 05.03.2016 made in I.A.No. 580 of 2015 in O.S.No.252 of 2010 on the file of District Munsif Court, Arakkonam, Vellore District.

For Petitioners : Ms.R.Saritha for
Mr.R.Karunagaran

For Respondents : Mr.G.Jeremiah
for R2 to R9

Mr. T.E. Ekambaram for R10

R1 – died



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ORDER

WEB COPY Challenging the impugned order passed in I.A.No.580 of 2015 in O.S.No.252 of 2010 on the file of learned District Munsif, Arakkonam, which was filed by the Revision Petitioners/plaintiffs to amend the pleadings under Order 6 Rule 17 of C.P.C.

2. During the examination of P.W.1, the reasons submitted by the plaintiffs is that instead of praying the relief against defendants 1 to 8, they claimed the relief against 9th defendant alos, hence they prayed to exclude the 9th defendant from the proceedings. The said application was strongly objected by the defendants stating that there is no reason assigned by the plaintiffs to delete the 9th defendant from the proceedings, on the other hand, as per the plaint pleadings, he also took part in the oral agreement along with other defendants. In such circumstances, the plaintiffs are not entitled to delete one of the defendants during the pendency of proceedings. Considering both side submissions, the trial judge dismissed the application holding that plaintiffs have not assigned any reason for removing the 9th defendant from the proceedings nor they approached the court in time as



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they have filed the application about five years after filing of the written statement. Challenging the said findings, the plaintiffs preferred this Civil Revision Petition.

3. The learned counsel for respondents/defendants would submit that now the trial is also begin and on the side of plaintiffs, two witnesses were examined. Furthermore, as per the averment in para 7 of the plaint pleadings, 9th defendant also participated in the alleged sale transaction. In the said circumstances, he cannot be deleted during the pendency of proceedings.

4. By way of reply, the learned counsel for revision petitioners/plaintiffs would submit that 9th defendant is only a broker and inadvertently, he was implicated in the proceedings.

5. On seeing the fact that now the trial was begin and witnesses are examined before the trial court and the plea taken by the plaintiffs can be putforth to the defence witness during the examination of witness and the 9th



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defendant should not be deleted from the part of the proceedings. So, the reason assigned by the learned trial judge is acceptable one.

6. In the result, this Civil Revision Petition is dismissed and the findings rendered by the learned trial judge in I.A.No. 582/2015 is confirmed. However, since the suit is pending from the year of 2010, the trial court is directed to proceed with the trial and dispose the case within a period of three months from the date of receipt of copy of this order. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

02.12.2022

Index : Yes / No
Internet : Yes / No
Speaking/Non-speaking order
rpp

To

District Munsif,
Arakkonam.



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T.V.THAMILSELVI, J.

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