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C.R.P(PD).No.2041 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P(PD).No.2041 of 2022
and C.M.P.No.10491 of 2022

1. Valarmathi
2. Gayathri

... Petitioners

Vs

1. Sirukkali Chinnusamy
2. Sirukkali Kuppayi
3. Sirukkali Kuppayi
4. Chellammal
5. Kuppayi
6. Thangammal
7. Rasammal
8. The Sub Registrar.
Office of the Sub Registrar,
Namagiripettai Post,
Rasipuram Taluk,
Namakkal District.
9. The Village Administrative Officer,
Chinnasekkadi Village,
Oonanthangal Post,
Rasipuram Taluk,
Namakkal District.



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10. The Tahsildar,
Office of Tahsildar,
Rasipuram.

11. The District Collector,
Office of the District Collector,
Namakkal.

... Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, pleaded to set aside the fair and final order dated 11.08.2021, passed by the District Munsif Court, Rasipuram, made in I.A.No.821 of 2018 in O.S.No.51 of 2018.

For Petitioners : Mr.B.Jawahar

For R8 to R11 : Mr.E.Vijayanand,

Additional Government Pleader

ORDER

This Civil Revision Petition has been preferred challenging the order of the learned District Munsif, Rasipuram, dated 11.08.2021, made in I.A.No.821 of 2018 in O.S.No.51 of 2018.

2. The petitioners are the plaintiffs in the suit filed for the relief of declaration and mandatory injunction against the private respondents viz.,



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defendants 1 to 8. During the pendency of the the proceedings, the plaintiffs have filed a petition to implead the respondents 9 to 11 as parties to the suit proceedings. The said petition was dismissed by the learned trial Judge. Aggrieved over that, the revision petitioners have filed this Civil Revision Petition.

3. Since, the petition has been filed by the plaintiffs to implead some of the Government parties as defendants 9 to 11 and Mr.E.Vijayanand, learned Additional Government Pleader also made his appearance for them and also for respondent No.8, notice for other private respondents 1 to 7 is dispensed.

4. Learned counsel for the petitioners submitted that the learned trial Judge had chosen to dismiss the petition filed to implead the Government parties, only on the finding that the Government parties cannot be impleaded as the parties to the suit proceedings without complying the mandatory requirement of issuing pre-suit notice under Section 80 of C.P.C.,.

5. Learned counsel for the petitioners submitted that the revision petitioners had chosen to file the petition to implead the Government parties because of the



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urgency arose subsequent to the suit and that is the reason why notice under

Section 80 of C.P.C., could not be issued.

6. On perusal of the records, it is seen that the learned trial Judge has rightly observed that the mandatory requirement of the Section 80(1) of C.P.C., for impleading the Government parties. So, the petitioners ought to have either complied the condition. If it is urgent and the notice under Section 80 of C.P.C., could not be issued for the reasons best known to the petitioners, atleast the petitioners ought to have filed a petition to dispense the notice under Section 80 of C.P.C., by way of filing a petition to dispense the notice under Section 80(2) of C.P.C. Since, the petitioners had omitted to comply the mandatory procedure contemplated under Section 80 of C.P.C., the learned trial Judge has rightly dismissed the petition.

7. However, in the interest of disposal, the petitioners should be given with a liberty to file a petition under Section 80(2) of C.P.C., to dispense the notice. In order to facilitate the same, the impugned order has to be set aside with a direction



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to the petitioners to file a petition to dispense the notice under Section 80(2) of

WEB C.P.C.

8. In the result, this Civil Revision Petition is allowed and the order of the learned District Munsif, Rasipuram, dated 11.08.2021, made in I.A.No.821 of 2018 in O.S.No.51 of 2018 is hereby set aside on the condition that the petitioners should file a petition under Section 80(2) of C.P.C., to dispense the notice within two weeks from the date of receipt of a copy of this order. In the event of such petition is filed, the learned District Munsif, Rasipuram shall dispose the same in accordance with law. Consequently, the connected Miscellaneous Petition is also closed. No costs.

05.07.2022

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Index : Yes

Internet : Yes

To

1. The District Munsif, Rasipuram
2. The Section Officer,
VR Section, Madras High Court,
Chennai.



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R.N.MANJULA, J.

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