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C.R.P(PD).No.1863 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P.(PD).No.1863 of 2022
and C.M.P.No.9486 of 2022

Valliammal (died)

1.Krishnan

2.Raman

3.Selvaraj

4.Perumal

5.Kaveri

... Petitioners

..Vs..

M.Pandurangan

... Respondent

Prayer:- Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and decreetal orders dated 18.11.2021 passed in I.A.No.663 of 2021 in I.A.No.500 of 2021 in O.S.No.519 of 2005 on the file of the District Munsif Court, Harur.

For Petitioners : Mr.P.Mani



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ORDER

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This Civil Revision Petition has been preferred challenging the order of the learned District Munsif, Harur, dated 18.11.2021 made in I.A.No.663 of 2021 in I.A.No.500 of 2021 in O.S.No.519 of 2005.

2.The revision petitioners are the plaintiffs. The deceased first plaintiff has filed a suit in O.S.No.519 of 2005 for the relief of specific performance and permanent injunction. During the pendency of the suit, the first plaintiff died and the plaintiffs 2 to 6 are arrayed as legal heirs of the deceased first plaintiff. However, the suit was dismissed for default on 10.08.2016 and later the suit was restored on application. Thereafter, the first defendant filed a petition in I.A.No.500 of 2021 for setting aside the ex-parte order passed against him on 10.08.2016. During the pendency of the said petition, he also filed a petition in I.A.No.663 of 2021 to amend certain particulars in the affidavit filed in I.A.No.500 of 2021 and the said petition was allowed. Aggrieved over that, the plaintiffs/petitioners have filed this revision petition.



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3.The learned counsel for the petitioners submitted that by way of amendment, the first respondent/first defendant attempts to change the entire averments made in the affidavit; by amending the dates and other particulars, the first respondent tries to take advantage and improve his petition and that cannot be allowed.

4.On perusal of the records and particulars of amendment which is sought to be amended, it is seen that the revision petitioners predominantly wanted to amend certain dates and include the correct words of the Court while passing the ex-parte order. Despite, these amendments are allowed, the character of the petition does not change. The suit is still pending and the petition filed by the first respondent/first defendant for setting aside the ex-parte order also still pending. Under such circumstances, if the amendment petition is not allowed, that will only hamper the proceedings further. The merits of the first respondent/first defendant claim can be tested in I.A.No.500 of 2021, which is filed for setting aside the ex-parte order. Since the learned trial



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Judge has rightly dealt the issue and allowed the petition for amendment,

I do not find any reason for interference.

5. With these observations, this Civil Revision Petition is dismissed and the order of the learned District Munsif, Harur dated 18.11.2021 made in I.A.No.663 of 2021 in I.A.No.500 of 2021 in O.S.No.519 of 2005, is hereby confirmed. In view of the above amendment, the learned District Munsif, Harur is directed to give an opportunity to the revision petitioners for filing additional counter. No costs. Consequently, connected Miscellaneous Petition is closed.

11.07.2022

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Index: Yes No

Speaking Order: Yes/No



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To

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



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R.N.MANJULA,J.

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