



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2022

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

C.R.P. (PD) Nos.1919 & 1920 of 2022
and C.M.P. Nos.9795 & 9799 of 2022

1.Beertha
2.Jayathi
3.Jayaprabu
4.Jayadevi
5.Jayaseelan

...

Petitioners
[in both C.R.Ps]

versus

1.Kalliappan
2.Lakshmi
3.Govindasamy
4.Maheshwari
5.Krishnan
6.Parvathi
7.Murugan
8.Ramesh
9.Kamala
10.Madhammal @ Madhu

...

Respondents
[in both C.R.Ps]

COMMON PRAYER: Civil Revision Petitions have been filed under Article 227 of the Constitution of India, against the fair and decreetal orders dated 23.04.2022 made in I.A.Nos.1 and 3 of 2022 in A.S.No.7 of 2019 on the file of the learned Principal Subordinate Judge, Dharmapuri by allowing these Petitions.



WEB COPY



For Petitioners : Mr.R.Prabakar
[in both C.R.Ps]

COMMON ORDER

These Civil Revision Petitions have been preferred challenging the orders dated 23.04.2022 made in I.A.Nos.1 and 3 of 2022 in A.S.No.7 of 2019 passed by the learned Principal Subordinate Judge, Dharmapuri.

2. Heard the learned counsel for the petitioners and perused the materials available on record.

3. The revision petitioners are the defendants 11 to 15 in O.S.No.348 of 2010. The respondents 1 and 2, who are the plaintiffs, have filed the above suit for certain reliefs. When the suit was pending, two more reliefs (reliefs 'f' and 'g') were added by way of preferring an amendment petition and that was allowed. After trial, the learned trial Judge dismissed the suit. Aggrieved over that the plaintiffs have filed an Appeal in A.S.No.7 of 2019. During the pendency of the appeal, the plaintiffs filed the petitions in I.A.Nos.1 and 3 of 2022 to reopen the appeal and to amend the valuation



of the property and to pay additional Court Fee, in view of the newly added prayers 'f' and 'g' and the same was allowed. Aggrieved over the said order, the defendants 11 to 15 have preferred this revision.

4. The learned counsel for the revision petitioners submitted that requirement to reopen the appeal and for payment of additional Court Fee in view of the newly added prayers had already been pointed out by them during the pendency of the suit itself, but the plaintiffs omitted to change the valuation and to pay the Court Fee; only after the appeal was filed, the petitions in I.A.Nos.1 and 3 of 2022 for reopening the appeal and for paying additional Court Fee were filed and allowed; this would only prejudice the interest of the revision petitioners.

5. The change in valuation and need to pay additional Court Fee are all technical defects which should be rectified. Despite the technical defects had continued till the appeal was filed, the entitlement of the reliefs can be based on the merits of the case only. According to the revision petitioners, the Court Fee remained deficit and the valuation also ought to



WEB COPY



have revised, in view of the additional prayers. It cannot be denied that the appeal is continuation of the suit. The learned trial Judge ought to have proceeded the suit hearing only after these defects were rectified. But it was not done. When additional prayers were included by way of amendment, the trial Court Registry ought to have brought out a note for payment of additional Court Fee. Since the same was omitted to be done at the end of the trial Court, the learned Appellate Judge has rightly given permission to the plaintiffs to effect necessary change in the valuation and to pay additional Court Fee. If such permission is not given, it will only cause loss of revenue to the Government and the Court cannot encourage parties to conduct suits without paying appropriate Court Fee. Since no prejudice would have caused to the revision petitioners for directing the plaintiffs to pay additional Court Fee, I do not find any reason for interference.

6. Accordingly, these Civil Revision Petitions are dismissed and the orders dated 23.04.2022 passed in I.A.Nos.1 and 3 of 2022 in A.S.No.7 of 2019 by the learned Principal Subordinate Judge,



Dharmapuri are confirmed. Consequently, connected Miscellaneous Petitions are closed. However, there is no order as to costs.

WEB COPY

24.06.2022

Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

sri

To

The Principal Subordinate Judge,
Dharmapuri.



WEB COPY

C.R.P. (PD) Nos.1919 & 1920 of 2022
and C.M.P. Nos.9795 & 9799 of 2022



R.N.MANJULA, J.

sri

C.R.P. (PD) Nos.1919 & 1920 of 2022
and C.M.P. Nos.9795 & 9799 of 2022

24.06.2022