



C.R.P(NPD).No.2001 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P(NPD).No.2001 of 2022

and

C.M.P.No.10254 of 2022

Nazeema Begum Sahiba (died)

1. Faiyaz Ahmed

2. Baksha @ Bakthiyar Ahmed

... Petitioners

Vs

V.Mohammed Parvez Sahib

... Respondent

Prayer:- Civil Revision Petition is filed under Section 115 of C.P.C., pleaded to set aside the Docket order passed dated 23.03.2021 in I.A.No.1 of 2021 in E.P.No.21 of 2020 in HRCOP No.4 of 2016 on the file of the District Munsif Court, Ambur, Ambur Taluk, Tirupathur District and grant such other relief under the circumstances of the case.

For Petitioners : Ms.R.T.Sundari



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ORDER

This Civil Revision Petition has been preferred challenging the order of the learned District Munsif, Ambur dated 23.03.2021 made in I.A.No.1 of 2021 in E.P.No.21 of 2020 in HRCOP No.4 of 2016.

2. The revision petitioners are the 2nd and 3rd respondents in the eviction proceedings filed by the respondent landlord. After getting the order for eviction, the respondent filed the execution proceedings. During the pendency of the execution proceedings, the wife of the 2nd revision petitioner died and hence, a petition was filed to implead the 2nd and 3rd revision petitioners as the legal representatives of the deceased 1st respondent in HRCOP No.4 of 2016 and the said petition was allowed. Consequently, the petition in I.A.No.1 of 2021 was also filed for amending the main petition and the said petition was also allowed ex-parte on 23.03.2021. Aggrieved over that these revision petitioners have filed this Civil Revision Petition.



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3. Learned counsel for the petitioners submitted that on 23.03.2021, counter of the revision petitioners cannot be filed due to his health reasons; in the interest of justice, the order made in I.A.No.1 of 2021 in E.P.No.21 of 2020 in H.R.C.O.P.No.4 of 2016 should be set aside.

4. It has to be noted that in the petitions filed for amending the Original Petition, subsequent to the impleadment of the legal representatives, no need to give any opportunity for filing counter, since, it is only consequential. Notice alone is sufficient. Admittedly, the revision petitioners are the legal representatives of the deceased tenant. Having impleaded them as party to the proceedings, the next stage of the proceedings should be progressed by way of amending the petition. It is just consequential, so, there need not be any fuss about the order of the learned executive Judge in allowing the petition for consequential amendment.



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5. Even, on the technical side, when a order has passed an Ex-parte order, the aggrieved party ought to have filed a petition to set aside the Ex-parte order. Instead of resorting to the appropriate remedy, the petitioner had chosen to file this Civil Revision Petition. This observation is only to set the law correctly and not to express the revision petitioners to file a petition once again to set aside the ex-parte order and cause further delay.

6. First of all, in the consequential amendment petition, filing of counter does not arise. Secondly, in an ex-parte order, the aggrieved party ought to have filed a petition for setting aside the ex-parte order and not filed a revision petition. This petition is just a frivolous attempt to delay the proceedings. Hence, I do not find any reason for interference.



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7. With the above observations, this Civil Revision Petition stands dismissed and the order of the learned District Munsif, Ambur dated 23.03.2021 made in I.A.No.1 of 2021 in E.P.No.21 of 2020 in HRCOP No.4 of 2016 is hereby confirmed. Consequently, the connected Miscellaneous Petition is also closed. No costs.

01.07.2022

rgi

Index : Yes

Internet : Yes

Speaking Order

To

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

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