



CRP.(PD).No.2319 of 2019
& C.M.P.No.15107 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2022

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

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& C.M.P.No.15107 of 2019

1. Karuppannan.
2. Kaliyammal.
3. Selvi.

... Petitioners

Vs.

1. Muthusamy.
2. Jeyakodi.
3. Chinnammal.

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 03.04.2019 made in I.A.No.510 of 2016 in O.S.No.297 of 2015 on the file of Principal District Munsif Court at Namakkal.

For Petitioner : Mr.T.L.Thirumalaisamy

For R1 to R3 : Mr.T.Dhanyakumar

ORDER



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This Civil Revision Petition has been filed to set aside the fair and decretal order dated 03.04.2019 made in I.A.No.510 of 2016 in O.S.No.297 of 2015 on the file of Principal District Munsif Court at Namakkal and thereby, allowed the petition seeking amendment in the written statement.

2. The petitioners are the plaintiffs and the respondents are the defendants. The petitioners filed suit for partition. While pending the suit, the respondents filed written statement. In the written statement, they admitted that in the suit property half of the property may be divided and handed over possession in their favour and also they paid Court fees under Section 37(iii) of Tamil Nadu Court Fees and suit Valuation Act. When the suit is posted for trial, at that juncture, the respondents filed application seeking amendment in the written statements, for the reason that there was some confusion in the written statement and later they obtained some document and as such, the plaintiffs are not entitled to the relief sought for.

3. On perusal of the written statements and the amendment sought for



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by the respondents are completely contradictory to each other. On comparative study both in the original written statements as well as the amendment sought to be made therein would show that the respondents had taken a total contradictory stand and what they had admitted in the original written statement is sought to be denied by way of such amendment.

4. The Hon'ble Supreme Court in *Ilayaperumal -vs- M/s.Madras Cements, Alathur, Ariyalur District* reported in [2013 (5) L.W. 488] was also referred therein. This Court repeatedly held that if the claimants intends to resile from an express admission made by him, such an application for amendment cannot be allowed. The defendants are not entitled to take mutually destructive alternative reasons. In view of the above judgment, the order passed in I.A.No.510 of 2016 dated 03.04.2019 are liable to be set aside. However, the respondents are liable to produce the documents during the trial while let in evidence.

5. With the above direction, , the *Civil Revision Petition is allowed.*



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No costs. Consequently, connected Miscellaneous Petition is closed.

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Internet : Yes / No

Index : Yes / No

Speaking Order / Non Speaking order

bsm

To,

1. The Principal District Munsif Court at Namakkal.



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G.K.ILANTHIRAIYAN, J.
bsm

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